

Pages 1 - 91

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP, JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
VS.)	No. CR 14-00175 WHA
)	
PACIFIC GAS AND ELECTRIC)	
COMPANY,)	
)	
Defendant.)	San Francisco, California
_____)	Thursday, May 28, 2020

TRANSCRIPT OF TELECONFERENCE PROCEEDINGS

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(Appearances continued, next page)

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**MARK FILIP, FEDERAL MONITOR
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JULIE M. KANE, SR. VICE PRESIDENT, PG&E
JENNIFER HUTCHINGS, U.S. PROBATION
LILLAN GROSSBARD
CHRISTINE HAMMOND, CALIFORNIA PUC
CHRISTOFER NOLAN, CALIFORNIA PUC**

Thursday, May 28, 2020

9:02 a.m.

P R O C E E D I N G S

THE CLERK: Calling Criminal Action 14-175, United States versus Pacific Gas and Electric Company.

Counsel, please state your appearances for the record, beginning with the government.

MR. STERN: Good morning, Your Honor. Noah Stern for the United States. I have with me on the line, appearing by telephone, Hallie Hoffman and Jeff Schenk.

THE COURT: PG&E, please.

MR. ORSINI: Good morning, Your Honor. This is Kevin Orsini from Cravath Swaine & Moore on behalf of PG&E.

MR. SCHAR: Reid Schar of Jenner & Block on behalf of PG&E.

MS. DYER: Kate Dyer, Clarence Dyer & Cohen, for PG&E.

THE COURT: All right. Any other counsel wish to appear?

MR. AGUIRRE: Good morning, Your Honor. This is Michael Aguirre, on behalf of the amici in the case.

MS. SEVERSON: Good morning, Your Honor. Maria Severson, also on behalf of amici in this case.

THE COURT: All right. Is there anyone else?

MS. HUTCHINGS: Good morning, Your Honor. Jennifer Hutchings on behalf of Probation.

MR. ZAFFERANO: Good morning, Your Honor. Marc

1 Zafferano for the City of San Bruno.

2 **MR. FILIP:** Good morning, Your Honor, Mark Filip,
3 Chris Keegan and Charles Kalil on behalf of the monitor team.

4 **MS. HAMMOND:** Good morning, Your Honor. This is
5 Christine Hammond from the California Public Utilities
6 Commission. And we had not intended to make an appearance, as
7 such, but wanted to make ourselves available to answer any
8 questions.

9 **THE COURT:** All right. Your name again, please?

10 **MS. HAMMOND:** Christine Hammond.

11 **THE COURT:** Excellent. I appreciate your attendance.

12 Anyone else?

13 (No response)

14 **THE COURT:** All right. Ms. Hammond, I have got a
15 question for you right off the bat.

16 And that is AB1054, I believe, established something
17 called the Wild -- I'm sorry, I've lost it now. Some division
18 called the Wildfire Safety Division. Is that it?

19 **MS. HAMMOND:** That's correct, Your Honor

20 **THE COURT:** Yes. Is that part of the CPUC? Or is
21 that a separate agency?

22 **MS. HAMMOND:** It was created as being within the CPUC,
23 and in 2021 it will move over to the California Resources
24 Agency, which also is an agency in which CalFire is housed.

25 **THE COURT:** Okay. And are you connected with the --

1 that division?

2 **MS. HAMMOND:** Yes. I'm representing the California
3 Public Utilities Commission. And that is presently where the
4 Wildfire Safety Division is housed.

5 **THE COURT:** All right. Okay. That helps a lot. All
6 right. So this is -- I need to say to -- there's a lot of
7 people on the line. But every time you join in or join out,
8 there is a beeping noise that disrupts our ability to hear each
9 other. So please try not to do that.

10 And I guess all of you should put yourselves on mute so
11 that we won't hear your background noise. I might do that,
12 myself.

13 (Beeping noise)

14 **THE COURT:** See, like, there goes another beep right
15 there.

16 (Beeping noise)

17 **THE COURT:** I have to ask everyone to please, please
18 not beep on the line.

19 Anyway -- I've forgotten what I was about to say. We're
20 here because of a motion to reconsider by PG&E, with respect to
21 conditions of probation.

22 So this is the motion by PG&E, and I would like to give
23 you the opportunity to go first. So, please go ahead.

24 **MR. ORSINI:** Thanks, Your Honor. This is Kevin Orsini
25 from Cravath, Swaine & Moore.

1 Just to make sure we're on the same page at the outset on
2 the procedural issues, Your Honor, so we had filed a motion for
3 leave to file our motion for reconsideration. But my
4 understanding at this point is that the Court has granted that
5 leave but, of course, has not ruled on the actual
6 reconsideration request.

7 And based on that, we've obviously submitted a series of
8 declarations from both fact witnesses and experts, and it's my
9 understanding those are in the record. So unless the Court has
10 a different view or proposed approach, I would just proceed
11 right to the argument at this point.

12 **THE COURT:** Well, I -- I do want to say -- yes. Your
13 assumption that I am allowing this motion to be reconsidered is
14 correct. And I don't want you to feel as if you did not get a
15 fair hearing. But I do feel -- I'll give you just one example.

16 We did have a hearing, I believe it was in February, at
17 which I had proposed certain things in advance. And you were
18 commenting on those. For example, one of your responses was
19 that PG&E did not have to -- should not be required to go out
20 and hire additional people to cut the trees because you were --
21 yourself, PG&E, was going to hire what you called
22 pre-inspectors. And these would be on your own payroll, and
23 in-house.

24 And I then said okay, that's what PG&E wants, and that's
25 not a bad idea. I'll shift over to that. And then now, now

1 you flimflam me, and say: No, we never got enough chance for a
2 hearing.

3 Well, it was your own idea. So I'm sorry that you feel
4 that you didn't get a hearing, but I want to err on the side of
5 giving you a hearing, and I want to seriously consider all of
6 your objections. And then I may modify the order, or I may
7 withdraw it, completely.

8 So, so -- but you need to remember that if ever there was
9 a corporation that deserved to go to prison, it's PG&E. And
10 the number of people it killed in California. And the judge
11 who's overseeing this probation has got to take the public
12 interest and the safety, the safety of the people of California
13 into account. I only have five years to do it, and there's
14 three years have been used up.

15 But, PG&E is a recalcitrant criminal. And I am going to
16 do everything within my power, being fair to you at the same
17 time, everything within the power of the Federal District Court
18 to protect the people of California from further crimes and
19 further destruction by PG&E.

20 All right. That being said, I'm very interested to hear
21 what you have to say. And I will sincerely listen to it, and I
22 will consider it. And give you yet another opportunity to be
23 heard.

24 Please go ahead.

25 **MR. ORSINI:** Thank you, Your Honor. Thank you for

1 that, those remarks. And I'll get to the vegetation-management
2 issues specifically towards the end of my presentation.

3 And let me just start by saying, Your Honor, we, we
4 completely understand the Court's perspective and share the
5 Court's desire to ensure that there are no more wildfires, that
6 there are no more homes destroyed, and God forbid, there are no
7 more lives lost. And we appreciate the opportunity to engage
8 with all interested parties including the Court on these issues
9 and will continue to do so.

10 So I thought, Your Honor, as I organize my thoughts for
11 the hearing today which we very much appreciate the Court
12 making available to us, particularly under these circumstances,
13 that I would start by addressing the conditions the Court has
14 proposed with respect to PG&E's transmission system, and then I
15 would turn to issues concerning the distribution system which
16 focuses, as Your Honor noted, on vegetation management.

17 And so starting with the transmission inspection program,
18 we have spoken before, Your Honor, about the fact that the
19 inspection program that's in place today is fundamentally
20 different from what was in place before the tragic Camp Fire.
21 And it was completed redesigned from the ground up,
22 specifically as a result of the Camp Fire and the conditions
23 that led to the ignition of that tragic wildfire.

24 And as we've discussed and set forth in the record,
25 Your Honor, the effort that PG&E undertook last year was

1 unprecedented. It was unlike anything that, to our knowledge,
2 has ever been done in the utility industry. I don't say that
3 so that we get a pat on the back. I don't say that so that we
4 get credit for doing this, because I understand the perspective
5 as to what had happened in previous years. But I think that is
6 a critical piece of the context. Because what we are dealing
7 with right now and discussing is fundamentally changed from
8 what PG&E had in the past. And as we set forth in the
9 declarations, and in particular, the declaration of
10 Ms. Hvistendahl who oversees this program, the Wildfire Safety
11 Inspection program that was implemented in 2009 was a
12 risk-based inspection program that focused on those areas in
13 the state that had the highest risks.

14 Your Honor, you and I have talked about these
15 high-fire-threat districts in the past, and the idea that not
16 all portions of PG&E service territory are created equally as
17 it relates to wildfire risk.

18 So what PG&E did in close consultation with its regulators
19 is it focused on those highest risk areas. And that included
20 the physical inspections, both climbing and aerial, of just
21 about 50,000 transmission structures. And, and we have
22 tangible evidence that that program has worked to identify
23 problems on PG&E's transmission system.

24 There were in the calendar year 2019, more than 60,000,
25 60,000 conditions of varying levels that were identified for

1 either repair or replacement. That includes more than 2,000
2 work orders related to what we call cold-end insulation
3 hardware assemblies. That's -- that's a broader category,
4 Your Honor, that includes the C-hook and hanger plate type
5 assemblies that are in the record that we've talked about.
6 It's also a little bit broader than that. But over 2,000 work
7 orders were identified with respect to those types of
8 components that needed repair and needed replacement.

9 And, and we submit, Your Honor, that these overwhelming
10 reports, which far exceed anything that any other utility in
11 the state found last year, is tangible evidence that the
12 enhanced inspections are working, and that they're a
13 fundamental sea change from what PG&E had been doing in the
14 past.

15 The program that is in place right now, Your Honor, builds
16 on that 2019 experience. It includes specific lessons learned
17 from the 2019 inspections, including a few I'll talk about in a
18 moment. And it was developed based upon additional input from
19 its outside regulators at the CPUC and a host of outside
20 experts, as well as the interested public.

21 And so, Your Honor, we believe, based on the totality of
22 the record, that there certainly is in evidence that this
23 approach needs to be scrapped, and there is no evidence to
24 support the specific conditions proposed by the Court. And
25 I'll get to each of those in detail in a little bit.

1 But first, Your Honor, I think it's important to focus on
2 the threshold issue that's presented by these conditions. And
3 that is one of federalism. And the concern that we have, that
4 the Court's attempt to impose conditions that would require us
5 to restart our entire design of the inspection program,
6 interferes with the state regulatory process, which very much
7 is within the police power of the state.

8 Now, let me be very clear, Your Honor. You have already
9 implemented probation conditions that require PG&E to comply
10 with the law, that require PG&E to comply with the CPUC
11 guidance and regulations, and that require us to continue to
12 work with our monitor. We accept every single one of those,
13 and we welcome those. And we are not here arguing that the
14 Court is acting outside its bounds by imposing those types of
15 conditions.

16 But what we do think raises significant federalism
17 concerns of the type that the Ninth Circuit addressed in
18 *Lacatos* is the Court's stepping into the role of the regulator
19 to apply specific conditions to how PG&E maintains its system.

20 And in particular, picking up on your colloquy with the
21 CPUC at the beginning, there is absolutely no question,
22 Your Honor, that the State of California is incredibly focused
23 on wildfire risk. There have been entire new regulatory
24 regimes created to address this fundamental problem in the last
25 two years. And a big part of that is what was discussed at the

1 outset of this hearing, which is the creation of the Wildfire
2 Safety Division. As noted by the CPUC, that division is
3 currently part of the CPUC, but in a year or so will move out
4 to be housed in the very same agency that houses CalFire, so we
5 will now have under one division in the state of California
6 those responsible for trying to prevent the fire from ever
7 starting, as well as the heroic people from CalFire who stop
8 the fires once they do start.

9 Governor Newsom has made a series of announcements over
10 the past few months about the resources that are being
11 dedicated to the Wildfire Safety Division. And he's explained
12 that it will be staffed by at least a hundred people who have
13 specific expertise, and will be devoted full-time to focusing
14 on the question of wildfire prevention and wildfire safety.
15 The division is advised by an independent board of directors.
16 And critically, it engages in data requests directed at all of
17 the investor-owned utilities across the state of California.

18 Just by way of example, as we have gone through the
19 many-month process of preparing our 2020 wildfire mitigation
20 plan, the Wildfire Safety Division provided PG&E, alone, with
21 over 200 data requests seeking specific information about every
22 aspect of the design of our mitigation program. And while I
23 don't know the specific numbers that went to the two large
24 utilities in the south, they're submitting similar data
25 requests to them.

1 And the key is this allows the Wildfire Safety Division,
2 as empowered by state law, to compare best practices among the
3 utilities, and bring innovation from one to another. Something
4 we absolutely welcome. And we had talked at previous hearings
5 about PSPS. Much of our PSPS program was specifically designed
6 based upon the experiences that were achieved in southern
7 California, who had programs in place before us.

8 And the Wildfire Safety Division is the regulatory body
9 that has the expertise, that has the manpower, and that has the
10 legal mandate to help us all work together to constantly
11 improve our programs. And that's key. Continuous improvement.
12 Because I do not stand here and say that this process is done.
13 It is an ongoing regulatory process that will last for as long
14 as the wildfire conditions exist in the state of California.

15 And critically, it is a process that includes the striking
16 of significant balances between how best to focus efforts and
17 most effectively mitigate the risks presented by many different
18 aspects of any utility's electrical system, including PG&E's.
19 It is not one that can be redesigned overnight. And it's not
20 one that is susceptible to conditions just being bolted onto
21 it, without causing interference with those conditions that
22 already exist.

23 And respectfully, Your Honor, there is no court that could
24 ever hope to replicate that expertise, and critically, resource
25 that's available for this ongoing iterative process. And so --

1 **THE COURT:** Let me interrupt you on that, then.

2 If all of that is true, and if the CPUC and the
3 legislature and all the regulators -- they were all in place,
4 all of that was in place when you -- PG&E burned up the wine
5 country with 17 fires, explain to me why that expertise didn't
6 stop the -- and those regulators didn't stop PG&E from burning
7 up the wine country with 17 fires that you started, and killed
8 a lot of people, and burned up a lot of homes.

9 Where was federalism then? Explain that to me.

10 **MR. ORSINI:** Yes, Your Honor. And I appreciate the
11 question.

12 And the answer to that is, Your Honor, much of this did
13 not exist back at that time. Obviously, the CPUC was in place.
14 But there was no wildfire mitigation plan requirement like
15 there is today. There was no Wildfire Safety Division like
16 there is today. There was no ongoing iterative workshopping
17 process with experts and with the public like there is today.
18 All of which was created specifically because of those horrible
19 tragedies that the Court has referenced. And, and we all know
20 that everyone wishes that those -- those tragic events could
21 have been averted.

22 But what -- what we can represent, Your Honor, and what I
23 think is the critical point as we sit here today, is when we
24 talk about the inspection program that exists now, it is
25 nothing like the inspection program that existed then. When we

1 talk about the regulatory framework that exists now, it is
2 nothing like the regulatory framework that existed then. The
3 state has responded, PG&E has responded, to the failures of the
4 past. And in particular, to the extreme increased risk that
5 we're facing as each year goes on, including this year, when
6 the conditions are susceptible to significant wildfire issues.

7 So Your Honor, in response to that question, I would
8 respectfully submit this regulatory regime wasn't in place at the
9 time. There was a CPUC, there was a PG&E. But both of those
10 organizations, the focus of those organizations, and the
11 statutory framework today is completely and fundamentally
12 different.

13 And, and as part of that, the wildfire safety plans that
14 we have to now submit, including our 2020 plan, are dozens of
15 pages long, with extensive backup materials that we go through
16 an elongated process with the Wildfire Safety Division to get
17 approved.

18 And just this past month -- it was earlier this month, and
19 it's in one of the materials that we've submitted to the Court,
20 the WSD conditionally approved PG&E's 2020 plan. But in doing
21 so, it imposed a long list of conditions.

22 There's no question, no question whatsoever, that the
23 Wildfire Safety Division in approving our plan, conditionally,
24 and as it relates to both transmission and vegetation, found
25 issues that they demand we do better on. And raised questions

1 that they demand we answer.

2 And that shows precisely that the process is working.
3 That they are not just accepting what we say is the right way
4 for PG&E to do this process. They're taking the input of their
5 experts, they're taking the input of the public, and they're
6 pushing not only PG&E, but all of the utilities across the
7 state, to make these programs better, Your Honor.

8 And, and we submit that as a result of that, at the most
9 fundamental level, that is why, while we do accept conditions
10 that say we have to comply with the monitor, while we welcome
11 conditions that say we have to comply with state law and keep
12 working through this process, we respectfully do not believe
13 that it is either appropriate or beneficial to try to replicate
14 any of that regulatory process in the context of probation
15 hearings.

16 **THE COURT:** Wait, wait, wait, let me -- I want to
17 challenge you on that.

18 **MR. ORSINI:** Yes, Your Honor.

19 **THE COURT:** The conditions that you have already
20 accepted are not only to comply with state law concerning
21 vegetation, but also -- and the monitor, but also to comply
22 with your own wildfire safety plan which you submitted to me a
23 year ago, and which was then accepted by the CPUC. And that
24 version was what you were required to comply with, and you
25 utterly failed.

1 In the first year, you failed so far behind on your own
2 milestones in your plan, and you are in total violation of that
3 condition of probation. It is -- you cannot go, run off to the
4 CPUC and say: Oh, please, excuse us from violating our own
5 plan, because you promised the U.S. District Court you would
6 comply with that version of the plan.

7 Now, having violated your own conditions of probation, now
8 you say to the District Court: Oh, Judge, oh, Judge, you don't
9 have the authority to do anything about the fact that we
10 violated the conditions of probation; only the CPUC can
11 regulate us.

12 Well, what remedy do I then have, if you continue to
13 violate the conditions of probation? Don't I have some
14 authority to require PG&E to clean up its act, when you -- when
15 you won't keep your promises as the probationer, as the
16 convicted criminal, and the judge overseeing you -- doesn't
17 that judge have some authority to enforce, by imposing more
18 conditions that are designed to bring you into compliance with
19 the conditions that you have, in fact, accepted?

20 All right. I'll stop there. Please answer that question.

21 **MR. ORSINI:** Yes, thank you, Your Honor.

22 So, a couple of responses on that. Number one, I
23 completely agree with the Court's statement, which is factually
24 true, that we were ordered as a probation condition to comply
25 with our wildfire safety plan. And we would be very open and

1 accept a condition that requires us to continue to comply with
2 our wildfire safety plans. I believe the existing condition
3 may already do that.

4 I disagree with the Court in the statement that we fell
5 completely behind with respect to that safety plan. There were
6 failures. There's no question. There were a number of
7 metrics, a minority of metrics, on which PG&E did not meet its
8 standards. There were far more where PG&E did meet its
9 standards. I'm not saying and PG&E certainly does not believe
10 that, you know, batting .750, hitting two thirds of your
11 milestones is sufficient, right? It's not acceptable to us.
12 It shouldn't be acceptable to anyone.

13 And that is why PG&E is working to address every failure
14 that was exhibited, to meet specific targets of the wildfire
15 safety plan. Which Your Honor also needs to understand was, in
16 its first place, an incredibly aggressive plan. Doesn't excuse
17 not meeting the targets, those are targets we took on, but it
18 was an incredibly aggressive plan. And that's what it need to
19 be. And PG&E overwhelmingly and the record demonstrates that
20 PG&E overwhelmingly met its targets.

21 With respect to the Court's question about the powers of
22 this Court, respectfully, I do not believe the Court has the
23 authority to impose conditions as a result of those failures or
24 any other that intrude upon and displace the regulatory regime
25 in the state of California, as these proposed regulations do.

1 Again, that's not to say that the Court doesn't have the
2 power to impose conditions that we comply with the law. The
3 Court certainly has the power to insist the monitor continue to
4 work with us, something we welcome and appreciate, and are
5 working closely with them.

6 But respectfully, Your Honor, no, I do not believe the
7 law, I do not believe principles of federalism, and I do not
8 believe *Lacatos* permits the Court to impose conditions of the
9 type that are presented here in any circumstance, because they
10 interfere with the regulatory regime.

11 **THE COURT:** Let me interrupt you a second now.

12 Part of the recent order that you object to said at the --
13 near the end, that the Court was flexible, meaning I was
14 flexible, and that you can come back -- you can confer with the
15 CPUC, with the monitor, with your experts; you can come back
16 with a counter-proposal that was designed to get at the same
17 issues that the Court was raising. And I did that specifically
18 to avoid any contention that I was stepping on the toes of the
19 CPUC, or at least, disregarding what they had to say.

20 Now, why doesn't that give you what you need in terms of
21 flexibility with the CPUC and your experts, to come back with a
22 counter-proposal that explains to the Court an alternative way
23 to achieve the same result? Why -- what's wrong with that?
24 You completely ignore that part of the order.

25 **MR. ORSINI:** Thank you, Your Honor.

1 So, so I think in part, Your Honor, that part of the
2 proposal puts a finger on precisely the problem here. We have,
3 throughout the last year and a half, repeatedly been in
4 situations where the Court is soliciting the input of the CPUC,
5 of CalFire, of having us work together with respect to these
6 plans. But Your Honor, that is precisely what the state
7 regulatory regime is doing. The proposal as to how best to
8 mitigate wildfire risk already exists. It is the proposal that
9 is reflected in PG&E's 2020 wildfire mitigation plan as
10 required by state law. And, and as now conditionally -- and
11 that's a key word -- conditionally approved, subject to ongoing
12 efforts by the regulators to have the very discussions the
13 Court is focused on.

14 Your Honor, I feel like it is unfortunate that you and I
15 fight on these issues in the context of these hearings, because
16 we have fundamental agreement on one point. And that
17 fundamental agreement is we cannot afford another wildfire.
18 The state of California cannot afford another wildfire. We
19 have to do everything we can to stop this from happening. And
20 that's what we're doing, Your Honor, with the regulators.
21 That's what the wildfire mitigation plan says.

22 And bringing that process in an abbreviated form into the
23 context of a federal probation proceeding just interferes with
24 the ability to focus on it that.

25 **THE COURT:** Wait a minute. Wait, wait. I just have

1 to interrupt you.

2 You know, after the wine country fires of 2017, I heard
3 the same argument. I heard the same argument from PG&E. And
4 -- that this problem was in hand, you were working with the
5 regulators, and: Please, Judge, let us work with the people
6 who know best and we'll solve this problem.

7 And then a few months later, we had the worst wildfire in
8 California history that burned down half of Butte County and
9 killed 88 people. That was what happened under that regime.

10 And then you said the same thing, you told me the same
11 thing: Oh, we're working with the regulators, we have this --
12 we have a wildfire safety plan. Then what happened? The
13 Kincade Fire.

14 Now, you haven't owned up to the Kincade Fire yet, but
15 it's quite clear that that jumper cable broke loose and started
16 that fire on the burned mountain tower. And now you're making
17 the same argument. This argument is never going to end.

18 You're always going to have a fire; you're always going to
19 be saying: Oh, the regulators, we're working with the
20 regulators. And, I don't know. It rings hollow after a while,
21 this argument about defer to the regulators. I'm sorry, but I
22 have to say that.

23 **MR. ORSINI:** Well, Your Honor, with respect to -- with
24 respect to those comments, obviously the 2017 fires involved
25 overwhelmingly, in I think all but one of the significant

1 wildfires of 2017, involved specifically vegetation management
2 issues. And there was a lot of work done immediately after
3 those fires to enhance the vegetation management work. And we
4 see the results. The Court has noted that. We did not have a
5 single vegetation-caused wildfire last year that resulted in a
6 loss of a life or the loss of a structure. And we have to keep
7 that streak going.

8 With respect to the 2018 Camp Fire, the cause that we've
9 acknowledged and the primary point was the failure of the
10 C-hook that we've talked about. And we all wish that that
11 could have been avoided. And that had been identified through
12 a variety of different mechanisms prior to the fire starting.

13 But it was as a result of the combined effect of those two
14 years of fires that any incremental changes to the system that
15 occurred between 2017 and '18 were discarded as insufficient,
16 and we started with a complete blank piece of paper, both with
17 respect to the regulatory framework, with respect to the
18 legislation, and with respect to PG&E's approach. And, and
19 what we've done prior to those just does not compare to what
20 was done today.

21 With respect to Kincade, Your Honor, we don't yet know
22 specifically what caused the fire. We do know, as we have
23 said, that a jumper separated. What we've seen is, and as the
24 expert declarations set forth, the inspections of that specific
25 tower showed no evidence of an imminent failure of a jumper.

1 And the reality is that no inspection program will ever be
2 perfect, but that doesn't mean we don't strive for perfection.
3 And that is what PG&E is doing, and that's what the regulators
4 are doing.

5 Your Honor, I understand the skepticism. I understand
6 your skepticism; I understand the skepticism of the public.
7 And we should not and do not ask that the Court simply accept
8 PG&E's word for it. But federal law and Ninth Circuit
9 precedent does require that these ongoing concerns be addressed
10 under the police power of the state. And that's where they are
11 being addressed, Your Honor. And we believe that it's critical
12 that the Court defer to that process.

13 Now, I would like at this point, Your Honor, if I may, to
14 turn to some of the specifics and -- and some of the specifics
15 with respect to the conditions.

16 As I noted earlier, Your Honor, we fundamentally believe
17 that the evidence of all of the issues that have been found,
18 whatever that might say about the past, establishes that what's
19 being done today is working. And we talked about Kincade.

20 The other thing that Your Honor and I have spent a lot of
21 time talking about and a lot of paper's been dedicated to are
22 the assemblies, the C-hook and hanger plates on the Cresta-Rio
23 Oso line. Um, on that tower that was adjacent to the
24 Caribou-Palermo line where the tragic Camp Fire started.

25 And let me say right at the outset and acknowledge right

1 at the outset that ultimately when PG&E went back and
2 reinspected that tower with the benefit of the photographs
3 provided by the TCC, PG&E made the determination that the
4 condition of those hanger plates warranted what we call an
5 E tag. And therefore, replacement within a year. We
6 ultimately did it much faster than that; we did it within two
7 months. And we absolutely wish that that condition had been
8 noted the first time the inspection was done. It was not.

9 And so the question then is, since we acknowledge that key
10 factual predicate, the question then is: Does that one
11 incident, does that one example suggest that the entire
12 inspection program needs to start over, and that it's not
13 working?

14 And respectfully, Your Honor, it does not. There was no
15 imminent safety risk presented by that hook. Period, full
16 stop.

17 Dr. James's analysis is unrefuted. And it shows that we
18 exceeded the CPUC's safety factor by 40-some-odd times. Right,
19 the CPUC safety factor that the Court has cited to me in the
20 past requires a load factor of 1.33. Even the worst one of
21 these assemblies had a load factor of 50 to 60 times. There
22 was absolutely no imminent risk of failure. So there was no
23 public safety risk here.

24 And the reality, Your Honor, is that those same assemblies
25 had, at a minimum, 15 more years before they approached the

1 critical safety factor, and potentially as long as a hundred
2 years. But that tower would have been inspected multiple times
3 before we ever got close to that safety factor.

4 And that's why the program is designed to have repeated
5 inspections and more frequently repeated inspections in those
6 areas that are most susceptible to wildfires.

7 Now, the next question that I would ask me is: Well,
8 that's fine, but what are you doing to make sure you don't miss
9 it the first time again?

10 And the answer there is, as set forth in the declarations,
11 we have done a lot of work, PG&E has done a lot of work to
12 improve the quality of the photos that are being taken during
13 these inspections, and to improve the guidance that is being
14 provided to those who are doing the inspections. We're
15 learning from these lessons. And, and that's what we need to
16 do. But again, this was not an imminent safety risk.

17 And respectfully Your Honor, one example across the entire
18 system when we found 60,000 issues that needed correction just
19 doesn't provide a record to throw the whole inspection program
20 out.

21 And then, focusing on the particular conditions that the
22 Court has proposed, which I break in to, I think, four basic
23 categories, the first is videotaping.

24 Your Honor, as we set forth in the declarations, that is
25 not something that's done by any utility, to our knowledge.

1 It's not something that any of the experts believe would be of
2 any use. It's something that would give lower-quality
3 inspection materials than the high-resolution photos that are
4 currently being taken.

5 And ultimately, I think part of what might have been
6 motivating the Court's concern with this condition, although
7 you will obviously correct me if I'm wrong, was the concern
8 about potential records falsification. Or a lack of clarity as
9 to whether or not inspections were actually completed.

10 And as we set forth in our declarations and in the expert
11 analysis, Your Honor, we do have very significant controls in
12 place already on that front. The company is moving as quickly
13 as it can to all digital-based inspection programs and forms.

14 The photographs that are required, some of which we have
15 provided as an example in the submissions, include metadata.
16 They require -- they require specific shots to be taken of the
17 tower leg with the tower numbers. There's GPS location data on
18 the photographs. So we already have a robust system in place
19 through the photography to help address any concern that may
20 exist about whether or not the inspection actually occurred.
21 But there's no evidence, Your Honor, simply none, that would
22 suggest that videotaping would add any value.

23 Related to that, there's the Court's suggestion that there
24 might be pulling or tugging on the components. And I think
25 that might be -- in part have been motivated by the Court's

1 comments and concerns related to the Kincade jumper that
2 separated.

3 But the reality is, Your Honor, again, as set forth in the
4 uncontested declarations of both the experts and the fact
5 witnesses, is -- you can't do that. You certainly can't do it
6 while energized, without using Faraday suits, which presents an
7 incredible safety risk to those line workers up there actually
8 doing this work.

9 **THE COURT:** Wait a second. Wait, wait. You're being
10 very unfair here.

11 I said if there was going to be any pulling or tugging on
12 it, of course it would have to be de-energized. There's no way
13 you could do that with the power. It would have to be a
14 completely de-energized line.

15 But here's the problem. When you submitted all of those
16 -- that -- it's always a needle-in-a-haystack problem with you.
17 You send me box after box after box, and there will be one
18 document somewhere in there that's relevant. We try to find
19 it, anyway.

20 But, the problem is this. You -- when we actually read
21 your reports, and read what the inspectors put down on the
22 paper, as recently as the Kincade Fire, after all these
23 regulators did their job, as recently as all that, you cannot
24 reconstruct from those reports whether they actually got up
25 there on a de-energized line and tried to tug on the line, or

1 tried to see if it was loose in some respect. You have no way
2 of knowing, no way of knowing what those inspectors actually
3 did. You even try to hide the names of the inspectors from me
4 so that we can't call them into court to ask them that
5 question.

6 It's impossible to go behind your inspection regime
7 because it is designed to conceal what really happened and what
8 really was tested, so that you can then say -- it's a courtroom
9 prop. You say: Judge, look, the inspections all said
10 everything was fine. We did our job. No inspection system is
11 perfect.

12 I've heard you say that like a broken record, 42 times.
13 Well, I'm sorry, but you need some way to know what these
14 inspectors did. And how complete a job they did. And the idea
15 of the video was to have that record, a moment-by-moment
16 reconstruction in addition to all those other things that you
17 are doing, that would -- so that you could look at that and
18 say: Okay, yeah, they de-energized the line. Yeah, in this
19 particular case, they did get up there and tug on it to see if
20 it was tight.

21 But I'm not saying that you -- I'm not saying -- I have
22 never said and it's unfair for you to suggest that I said that
23 you should send a worker up there to be electrocuted by
24 touching a live wire. That's ridiculous. I never would make
25 such a suggestion. I know better than that. I know enough

1 about power lines that that would be instant death.

2 Please, don't -- don't try to impugn the integrity of the
3 Court in that way.

4 Next point.

5 **MR. ORSINI:** Your Honor, I in no way was trying to
6 impugn the Court's integrity. And my very next point was going
7 to be on de-energizing.

8 So Your Honor, I was laying out the two different
9 approaches that are available to do something like this. One
10 would be energized which, as we both agree, would be very
11 dangerous. The other would be, as the Court noted,
12 de-energizing. But that's neither feasible nor productive.

13 To de-energize consistently enough to do a
14 tugging-and-pulling inspection on all of the transmission lines
15 would cause massive reliability problems in the state of
16 California, would require close coordination with the
17 California ISO, and impose an enormous burden on them, all of
18 which would not yield any benefit.

19 Your Honor, the forms do not indicate whether anyone
20 tugged or pulled on the equipment, because we know they didn't.
21 Because they are not instructed or permitted to. Because,
22 again, you can't do it when it's live. You would have to
23 de-energize, which we don't. And, and as the evidence
24 establishes, doing so would not actually provide any useful
25 information in nearly all instances.

1 As the experts explained, these components are incredibly
2 large, incredibly heavy, under incredible tension. And having
3 someone climb the tower and give them a tug or a pull does not
4 go anywhere towards simulating the types of conditions that
5 they would face in a failure event.

6 So --

7 **THE COURT:** Wait, wait, wait. Wait. I didn't say you
8 had to climb and de-energize every line. I never suggested
9 that. It is a -- you, yourself, told me that you de-energized
10 that line in Butte County. That it was completely dead. You
11 de-energized that in order to -- in part, I guess, to do
12 inspections.

13 Now, I know you can de-energize a line if you feel it's
14 necessary. But what I don't want you doing is coming back and
15 saying later: Oh, Judge, look at the inspection reports;
16 everything, everything was fine.

17 So, how -- tell me, counsel, assume for the sake of
18 argument that I'm correct -- and I'm -- I believe to a moral
19 certainty that I am correct -- that your jumper cable on the
20 Kincade tower is what caused that fire, and it broke loose in
21 the windstorm.

22 Explain to me how you would fix the inspection system so
23 that that would not happen again. And if you can't explain
24 that, how do we know it's not going happen on other jumper
25 cables on PG&E lines?

1 Please, how would you fix the -- how is PG&E going to fix,
2 fix it so that that inspection system catches it the next time?

3 **MR. ORSINI:** Your Honor, unfortunately I can't answer
4 that question, because we don't yet know precisely what the
5 failure mechanism was of that jumper. So without having a full
6 reconstruction as to why it failed, we're not able to actually
7 determine whether or not there's a specific issue that we could
8 be looking for.

9 The --

10 **THE COURT:** Wait, wait. Think about how ridiculous
11 that is.

12 Here it is, almost a year after that failure, a year after
13 -- and it's your equipment, it's PG&E's equipment. And you,
14 working with the regulators that you say have it all under
15 control, you don't even know what went wrong.

16 **MR. ORSINI:** Your Honor --

17 **THE COURT:** That is an insult to the people of the
18 state of California who rely on PG&E to be safe -- and that's
19 what you keep telling us -- but in fact, you can't even tell us
20 what went wrong on your own line that caused the fire.

21 **MR. ORSINI:** And Your Honor, if I could continue,
22 part of the reason why we don't know precisely what happened is
23 because there is an ongoing investigation with respect to that
24 incident. And as is completely typical in any type of
25 investigation of this nature, that evidence is preserved by the

1 State. It's not a criticism of them. Not in the least. But
2 it's just a fact. That's point number one.

3 Point number two, what I can tell you is that PG&E,
4 without having full knowledge right now of what may have caused
5 that separation, does have additional inspection tools that it
6 is using in order to try to identify hidden defects, such as
7 they are.

8 And one of those is infrared imaging, which, based upon
9 certain load factors, can help identify whether or not there
10 may be a hidden defect. That is being deployed, and it's being
11 deployed broadly.

12 We are also looking for circumstances that may involve
13 jumpers, to have them more closely examined to see if there's
14 anything else we can identify that could cause a separation, in
15 the event of a high-wind occurrence.

16 So, so Your Honor, I understand the frustration with
17 respect to not knowing precisely what happened. We are -- we
18 are moving forward with inspection programs that were enhanced,
19 to try to identify as many of these types of issues as we
20 possibly can.

21 **THE COURT:** All right. I interrupted you. You were
22 -- you are still on transmission. The point-by-point critique
23 of the things that I had suggested that you put into your
24 revised inspection program, all subject to a -- I was all
25 willing to listen to a flexible revision of that, after you

1 consulted with the CPUC. But this is fine; I want to continue
2 to hear your objections.

3 Go ahead.

4 **MR. ORSINI:** Yes, thank you, Your Honor.

5 So with respect to the asset age condition, again, the
6 record overwhelmingly demonstrates that it's neither useful nor
7 feasible. Asset age is not the primary motivator or even one
8 of the key motivators of the maintenance of these systems.

9 This is a condition-based inspection program. It's
10 looking at the specific condition that exists. That is the
11 industry standard. It's exactly what's done by all other
12 utilities in the state of California.

13 And as we've submitted, there is no record of any utility
14 in the United States that would capture this level of granular
15 information, because at the end of the day, it is only loosely
16 correlated to the asset-management decisions.

17 Age can be a very poor indicator of condition. It could
18 lead to decisions that are made that are not the most efficient
19 and risk-adjusted decisions, in terms of what to inspect and
20 what to replace.

21 You know, PG&E does track age at the line level, as a
22 general matter, and that does provide some information for
23 asset-management purposes. And also would permit, for example,
24 an assessment of, you know, this line is X years old, but it's
25 in a very dry inland area, and therefore, unlikely subject to

1 corrosion versus Y line which traverses the Bay area, and
2 therefore is younger, but far more subject to corrosion. So at
3 the very macro level of line vintage, that type of information
4 is generally known and is tracked.

5 But to get into the specific age of the hundreds of
6 thousands and millions of components across the entire
7 transmission system would not meaningfully impact any
8 asset-management decisions. And, candidly, would not even be
9 feasible.

10 **THE COURT:** Let's stop you for a second.

11 **MR. ORSINI:** Sure.

12 **THE COURT:** On that line up there that wound up
13 burning down half of Butte County, you've seen the photographs
14 of the hanger plate and you've seen the photographs of the
15 C-hook that was more than halfway worn through from swaying in
16 the wind, and you're telling me that it would have done zero
17 good to know the age of those components.

18 **MR. ORSINI:** Well, I'm telling you, first of all, that
19 we don't know the age of those components. I know that for a
20 fact.

21 Second of all, it would not have, in the context of a
22 well-designed condition-based inspection program. Right? And
23 that's what we have today.

24 I'm not defending, Your Honor, the program that was in
25 place that failed to catch those conditions in Butte. I can't,

1 and I won't. What I can say is with the program we have now,
2 just stepping back, it was based upon, in particular, what's
3 called an FMEA, a failure mode effect analysis.

4 So what PG&E did with various outside experts is there are
5 obviously a lot of different configurations, there are a lot of
6 different assets and components to these lines. And not all
7 are equal in terms of both their wildfire risk and their
8 likelihood of wear or corrosion. And so an analysis was done
9 of those components that are most likely to exhibit significant
10 deterioration over time. And that is what's targeted as part
11 of the inspections. That was updated for the year 2020.

12 And the way it was updated was by looking at those 60,000
13 conditions that came down in 2019, and analyzing, based upon
14 that data: Okay, what are we seeing in trends? What does it
15 look like is occurring on the system, now that we have really
16 enhanced these inspections?

17 And that is further refining the focus of the inspectors
18 on the condition. And so ultimately, Your Honor, it comes down
19 the condition; it comes down to that inspection. And knowing
20 the precise age of every single assembly on the transmission
21 system will not meaningfully change the assessment on a
22 condition-by-condition basis.

23 And as I said, it's just simply not possible. The records
24 going back that far do not exist. No utility tracks records
25 like that. And the amount of effort and energy and distraction

1 that would be spent trying to come up with approximations of
2 that data which does not exist would not, at the end of the
3 day, yield reliable enough information to inform
4 asset-management decisions, even if that level of granularity
5 did. As I said, there are higher-level pieces of asset age
6 that are part of the overall analysis, as related to the
7 line-level age. And those are taken into account.

8 But we do not believe that there's any records to support
9 the idea that getting into that level, given the infeasibility
10 for each of the components, would do anything to enhance the
11 safety of the system.

12 And then the final point, Your Honor, I'll make with
13 respect to the transmission line conditions is the insurance
14 condition. My remarks here are short because it's simply
15 impossible. The insurance market does not exist that would
16 provide that level of wildfire coverage.

17 That is a big part of the reason that the State of
18 California created the wildfire fund. To make sure that there
19 is a backstop in the event of another catastrophic wildfire
20 that exceeds not only the insurance available to a utility and
21 its contractors, but also that utility's ability to pay.
22 Stated differently, to avoid another bankruptcy like we're
23 currently in.

24 So the insurance condition, if it were possible, that
25 would be ideal. But it's simply not possible.

1 **THE COURT:** Well, I think you're overstating what the
2 insureds' condition was. Do the -- do these contractors carry
3 insurance now? And if so, what is the typical amount that they
4 carry for -- if they were to do their job poorly?

5 **MR. ORSINI:** The contractors do carry insurance,
6 Your Honor. It varies by contractor. My understanding is some
7 of them may have an ability to obtain no more than a few tens
8 of millions of dollars worth of insurance. Other of the
9 larger, more national contractors may often have insurance
10 towers that exceed 100-, \$200 million. But those would be
11 towers that I anecdotally understand would cover all of the
12 lines of work that they're in.

13 The problem is the insurance market for wildfire liability
14 coverage in the state of California just doesn't really exist
15 anymore. That's a little bit of an overstatement. It is
16 incredibly tight.

17 We set forth in the declarations the difficulty PG&E has
18 had in getting insurance, itself. I know firsthand from
19 working to resolve the wildfire claims in the bankruptcy and in
20 the state-court proceedings before that, that when you look
21 back at -- when you look back at what the company had in terms
22 of a wildfire liability tower prior to the North Bay fires, it
23 was close to a billion dollars. It was still a little over
24 \$1 billion when the Camp Fire occurred for that policy year.
25 Now we're down in the 4- to \$5 million range.

1 And to get that level of insurance, even for PG&E, is
2 premiums that get close to 60 to 80 percent at times of the
3 actual insurance coverage, even if the insurers will write it.

4 And what we've heard from the contractors, as reflected in
5 the materials we filed, is the general description of the
6 levels of coverage that I gave a few moments ago were for prior
7 years, and it's not even clear whether or not they'll be able
8 to obtain that type of insurance going forward.

9 **THE COURT:** Let me ask you a history question here.

10 **MR. ORSINI:** Yes, Your Honor.

11 **THE COURT:** Have any of the contractors through their
12 insurance, or with or without insurance, paid into compensate
13 victims of the various fires?

14 **MR. ORSINI:** So with respect to the Butte Fire -- not
15 the Camp Fire, Your Honor, but the Butte County Fire of 2015,
16 PG&E did pursue claims against a couple of its
17 vegetation-management contractors, and there were amounts paid
18 by those contractors into the recoveries that went to the
19 wildfire victims.

20 For the more recent fires, part of the settlement that we
21 reached with the tort claimants committee and the victims that
22 they voted in favor of and is subject to confirmation right
23 now, and it's actually a big part of the negotiation from the
24 perspective of the TCC, was assigning to those -- to the trust
25 that's being created for the benefit of the wildfire victims,

1 the claims that PG&E would otherwise have to seek such
2 recoveries against any of PG&E's contractors that may bear some
3 responsibility for the '17 and '18 fires.

4 So I have every expectation, given how hard the TCC has
5 fought for those claims, that they will be pursued. They're
6 already seeking discovery in furtherance of those claims in the
7 bankruptcy. And that's where that stands, Your Honor.

8 **THE COURT:** All right. So you've now gotten through
9 all of your points on the transmission lines. I think you
10 wanted to also now turn to the distribution lines and the
11 vegetation problem.

12 **MR. ORSINI:** Yes, Your Honor, thank you.

13 And, and here, again, I think there is common ground
14 between PG&E and the Court. We have acknowledged repeatedly
15 that vegetation contact on distribution lines is one of the
16 biggest wildfire risks in the PG&E service territory.

17 (Music played over audio system)

18 **THE COURT:** Somebody, someone -- Theresa, are we still
19 connected?

20 **MR. ORSINI:** I can hear you, Your Honor.

21 **THE CLERK:** Yes, we are, Judge.

22 **THE COURT:** What was that music?

23 **THE CLERK:** I'm not quite sure where that was coming
24 from.

25 **MR. STERN:** Your Honor, this is Noah Stern from the

1 government. I've had that happen before on a call. I think
2 somebody put us on hold. And sometimes the hold -- there's
3 hold music that gets played.

4 So, if you could instruct everybody not to put us on hold.

5 **THE COURT:** Yes. I so instruct everyone. Try to keep
6 the noise down, so we can hear everyone.

7 Okay. We're going to turn now to the vegetation. Please
8 go ahead.

9 **MR. ORSINI:** Yes, thank you, Your Honor.

10 The point I was making when we had a soundtrack was that
11 the company obviously agrees that vegetation strike on
12 distribution lines is one of the biggest areas of risk. And
13 that's why the company has done a lot, which we've talked to
14 you about, in terms of expanding the work it does on that
15 front.

16 And, and in particular, in these high-fire threat
17 districts, each mile of distribution lines gets at least two
18 different work flows, and in some instances three, that can
19 result up to 12 different vegetation management work cycles in
20 a given calendar year. And that's a combination of the routine
21 work, the FEMA work, and the enhanced vegetation management.

22 You know, again, I'm focused on what we're doing today,
23 not what happened before the 2017 fires. But what happened --
24 what's happening today, and as confirmed by the testimony we
25 submitted of Mr. Goodfellow, a vegetation management expert

1 with more than 40 years of experience, PG&E's process is at the
2 forefront of the industry. Which is where it need to be.
3 Right? Industry standard is one thing. California industry
4 standard is another. And PG&E continues to push forward as
5 much as it can. And, and there's no question that the
6 vegetation management efforts are improving significantly.

7 As the Court noted, there were no vegetation-caused fires
8 that destroyed a single home in PG&E's territory in 2019.

9 **THE COURT:** Well, wait, wait, wait, wait. That is
10 true. But tell everyone why that is true.

11 **MR. ORSINI:** Well, Your Honor, part of that is true
12 because of the enhanced vegetation management work we are
13 doing. Another part of that, which I was going to get to, is
14 the PSPS. The de-energization. Which, again, we have very
15 common ground on that one, Your Honor. We believe
16 de-energization is a critical part of what PG&E has to do to
17 avoid wildfire risk.

18 Where we depart on that issue, Your Honor, is --

19 **THE COURT:** Wait, wait. One second. I'm sorry,
20 counsel. Someone is talking on the line and it's -- they're
21 not muting, and we're hearing your conversation, and it's
22 interrupting us. So please mute your line if you are not
23 speaking to the Court.

24 Well, while I have the floor, I'll just say this. I think
25 the number was in -- was about 300. I've forgotten the exact

1 number now. During the PSPSs, I asked you to go back and to
2 determine how many trees and limbs fell on the line, the
3 distribution lines, and that were de-energized.

4 And of course, you know that, because the whole point of
5 de-energizing is to be able to check the lines before you
6 reenergize them to see if they're safe to -- and it turned out
7 there were a fantastic number of trees and limbs had fallen
8 that would have resulted in wildfires, had you not done the
9 PSPS.

10 So on the one hand, I salute you, I give you credit for
11 the PSPS. That is a step forward, despite the fact that it is
12 a huge inconvenience, that nevertheless is better -- a lesser
13 evil than -- lesser evil.

14 However, please don't leave the impression, as I think you
15 were about to, that the vegetation program is under control.
16 It is not. That is why you -- you are so far behind on it. So
17 far behind, many, many years behind on it, that you have to
18 resort to the PSPS to avoid those trees from starting
19 wildfires.

20 So I think, I think your spin on this is not quite
21 correct. I think your spin on this is that everything is fine.
22 It's not everything is fine. There are a lot of trees and
23 limbs out there that present real and present and clear dangers
24 to the safety of the people of California.

25 Okay. I'm sorry for the interruption, but I had to say

1 that. Go ahead.

2 **MR. ORSINI:** And I'll address that directly,
3 Your Honor. First of all, I do not assert that everything is
4 perfect. You know, far from it.

5 But I don't, respectfully, agree with the Court's
6 statement that the incidence of trees striking lines during
7 PSPS is somehow indicative of a fundamental flaw in the
8 company's system, or that we are so many years behind where we
9 need to be. We are not. The record does not support the
10 conclusion that PG&E is years away from compliance.

11 PG&E --

12 **THE COURT:** Wait, wait, wait. Wait, wait. I know you
13 have terminated Bill Johnson. But about nine months ago, he
14 was on television when he was still the CEO, and he said it
15 would be a decade -- a decade -- before the company would be
16 caught up on its vegetation management. And, and looking at
17 the numbers that you have supplied to me, I believe that's
18 pretty close to accurate, as to how far behind you are on your
19 backlog.

20 Now, God bless you, I would be thrilled if you could come
21 into compliance in one or two years. But I don't -- I believe
22 it's more likely to be eight or ten years than it is to be one
23 or two.

24 Do you disagree with that?

25 **MR. ORSINI:** I do, Your Honor. I do disagree with

1 that. Because what Mr. Johnson was saying -- and we've
2 addressed this previously -- is that it would be ten years
3 before we might be able to stop PSPS. But that's not because
4 of a backlog in vegetation management. That's because of other
5 things that we need to do to bring the system up to the place
6 where we can target de-energization, where we can harden the
7 system, where we can do enhanced vegetation management that
8 goes far beyond any regulatory clearance requirements. The
9 enhanced vegetation management work that's clearing ground to
10 sky, that's clearing a much wider corridor than the regulations
11 actually require, Your Honor.

12 I do fundamentally disagree with the idea that the record
13 supports that PSPS is the result of some multi-year backlog
14 that's in place at PG&E. That's just simply not true,
15 Your Honor.

16 PSPS, on top of that -- and the point I was going to make
17 next is healthy green trees fail. Trees that no vegetation
18 management program in the world would take down fail. And, and
19 that's what our experts have explained. And that was a big
20 part of the reason identified by the CPUC as to why PG&E and
21 the other utilities need de-energization programs. Because
22 even the best utility vegetation management program in the
23 world -- and I'm not suggesting that's PG&E's, but even the
24 best in the world, whoever it is, will not be able to stop all
25 tree strikes. It's fundamentally and physically impossible.

1 PG&E worked last year over 1.3 million trees. For an
2 expanded vegetation management, which will take eight to ten
3 years to get done, they exceeded -- by just a tiny bit, but
4 they met and exceeded the line mile target they had set in the
5 2019 wildfire plan.

6 So yes, it will take years to do all of that enhanced
7 vegetation management. But that's not years to clear a
8 backlog. That's years to do enhanced work that's being
9 designed to address the increased challenge of wildfires and
10 the increased risk because of the confluence of the dry seasons
11 and the high winds.

12 And Your Honor, on that point as well, there were -- what
13 the record does support in terms of missed trees, there were a
14 number that the monitor reported which we welcome and
15 appreciated. Overwhelmingly, those were trees that were part
16 of the enhanced vegetation management program. With a few
17 exceptions, they were not compliance issues. Right? So that
18 doesn't support the idea that we are fundamentally out of
19 compliance with the state regulations.

20 There were hiccups with the EVM program because no one had
21 ever done it before. And there were needs to go back and
22 retrain a lot of the workers because they had to think about
23 the approach very differently than you typically would from a
24 compliance perspective, and that was part of the process. We
25 didn't pilot it, we just did it. Because we needed to get

1 started right away. But, again, that's not a compliance issue.

2 So I understand the Court's perspective, and I've heard
3 the Court's perspective. But respectfully, we fundamentally
4 disagree on the idea that there -- that what we are seeing with
5 PSPS or otherwise is in any way related to some backlog of
6 years and years worth of work that will take a decade to
7 complete. Because respectfully, Your Honor, it's just not
8 true.

9 Now, turning directly to the specific condition -- and --
10 and I heard Your Honor's description at the outset that we've
11 sort of flimflammed you here. And that was certainly not our
12 intention, and I don't believe we have done so.

13 What we explained in our prior filings was that we were
14 running a pilot program to potentially bring a small number of
15 pre-inspectors in house. That pilot program is still ongoing.
16 We also are running a number of programs to bring some work
17 verification, which is another way of saying post-inspection,
18 in-house.

19 **UNIDENTIFIED MAN:** What? What's that?

20 **MR. ORSINI:** Sorry. Was that the Court? Or was that
21 someone else?

22 **THE COURT:** It must be someone else. I can hear you.

23 **MR. ORSINI:** Okay. Thank you, Your Honor. I just
24 wanted to make sure I wasn't talking over you.

25 That work is ongoing; those pilot programs are ongoing.

1 But, but we have not and never have intended to bring the
2 entire pre-inspector work force internal to PG&E. And for all
3 of the reasons we've set forth in the papers, all of the
4 reasons that we've set forth in the declarations, we do not
5 believe that that is advisable.

6 You know, I understand from our various interactions over
7 the past year or so, Your Honor, that the Court has concerns
8 about the use of outsourced contractors. The fact is that is
9 what is done by every utility in this state, and that is
10 industry standard throughout the country. There are good
11 reasons for that. They are the experts on doing this work. We
12 are not. They have the manpower to spin up and spin down and
13 have flexibility to deploy resources that we don't.

14 And bringing 600 to 1,000 pre-inspectors in house to PG&E,
15 I don't believe, Your Honor, there's any evidence that would
16 actually improve safety or compliance. Right, in part, because
17 it would just be the same people. There's a limited work force
18 of trained inspectors. And so if we had to hire them to wear
19 PG&E uniforms, we would just be taking the same people who
20 currently exist, and moving them into PG&E, but now we would
21 have to build on top of that an entire infrastructure to manage
22 a new 1,000-person work force. And that would -- it would cost
23 a lot of money. But far more important than the money, it
24 would be a distraction for the vegetation management leaders
25 from what they need to be focused on, which is their expertise

1 in trying to improve the accountability of the contractors that
2 are doing the work. And that, I think, is one of the most
3 important points here on this condition, Your Honor.

4 Again, a common ground here is we believe one of the most
5 important things PG&E has to do is improve the accountability
6 of the contractors who are doing the vegetation management
7 work. And that is a big motivation behind the new defined
8 scope program that PG&E has developed over the last few months,
9 and is in the process of rolling out.

10 And just to give a little bit more detail on that,
11 historically, for PG&E's basic regulatory-compliance tree work,
12 there would be one contract company that would do the
13 inspection, and a separate contract company that actually went
14 in and did the tree cutting. And we've seen instances where a
15 post-inspection will find something that was missed, as part of
16 the quality control and quality assessment work that PG&E has
17 done.

18 And there were at least some instances in which you would
19 see some finger pointing. The pre-inspector saying: Oh, we
20 marked it but they didn't work it. The tree contractor saying:
21 Oh, we didn't see a marking there so they missed it, and we do
22 what we are told to do.

23 A big part of defined scope is solving that problem. And
24 the way it does that is by placing in the hands of a single
25 contractor the work flow for a defined set of circuit miles.

1 That way, there is no ambiguity whatsoever with respect to who
2 is responsible, in the event that some tree is missed.

3 And PG&E, as they roll this out, is adding another level
4 of quality control because what they're going to do is they're
5 going to add on top of their existing quality control and
6 quality assessment audits, another level of work verification
7 where they will go through with a mix of in-house and contract
8 personnel -- obviously not contractors from the contractor who
9 works that segment -- and do some post-work verification, and
10 see how good a job that contractor did on the line miles that
11 they are responsible for.

12 And that will allow for immediate accountability; it will
13 allow for retraining. It will allow for, in the worst-case
14 scenario, you know, a very clear record that this contractor's
15 just not up to snuff, and they have to go.

16 And so that's a process that is under way that as
17 Mr. DeCampi, an individual with decades of experience in this
18 industry know, has been used to great effect elsewhere. And
19 it's something that we're designing specifically to get to, I
20 think, some of the very same concerns the Court has articulated
21 about accountability and effectiveness of the work that's being
22 done. And it's something that we can't do and also comply with
23 the Court's condition.

24 And so respectfully, Your Honor, I think the evidence
25 establishes that there is really no support for the idea that

1 bringing the whole pre-inspector cadre into PG&E will have any
2 material benefit to public safety or compliance. And, and the
3 evidence establishes that that's not something that's remotely
4 done within the industry. But more significantly, that we're
5 working to address the same types of concerns through another
6 program that's already under way, and that would be disrupted
7 if we had to comply with the condition.

8 **THE COURT:** All right. I never said that you had to
9 bring every single pre-inspector into -- I said you had to
10 bring in a sufficient number to manage the problem.

11 And you already have your own pre-inspection program on
12 your own payroll. And that could be expanded some so that you
13 could do at least some of the work, and have a firsthand
14 knowledge of what is going on out there in the field. Because
15 apparently, from what you're saying, you have no one competent
16 within the four corners of PG&E to go out in the field and to
17 spot the trees that need to be cut. Yet, it's your
18 responsibility under the state law to do that. And, and yet
19 you have nobody on your payroll who is competent to do that.

20 In the old days, I know you did. Back in the nineties, I
21 believe you had people on the payroll who did exactly that.
22 But you decided to outsource. That's what you did, outsource.
23 You outsourced it.

24 And to your point that there's -- that you would just be
25 hiring the same people, well, in part, that may be true. But

1 on the other hand, you can train people. Do what the Army
2 does. You train people to do the job, that don't have any
3 prior experience, yet they're trainable, and so you can train
4 your own work force.

5 So, I don't know; you're not convincing me. You,
6 yourself, told me this at the hearing in February that you --
7 or whenever we were considering another different idea: Oh,
8 Judge, look, we're bringing the pre-inspectors into PG&E. We
9 have our own program. We're going to be trying this out.

10 Well, I thought: Okay, that's a pretty good idea. Let's
11 go with that, instead.

12 Well, now you're backing off of that and saying it's a
13 disaster. I was flimflammed by you, counsel. So, you -- you
14 did it. You did it. You weren't -- you're trying to wiggle
15 off your own statements to me now.

16 **MR. ORSINI:** Your Honor, if I may --

17 **THE COURT:** And I never said bring in 1,000 people.
18 That's ridiculous. Where in the order does it say: Bring in a
19 thousand people? It didn't say that.

20 **MR. ORSINI:** Well, Your Honor, a couple things, if I
21 may respond to that.

22 So we interpreted your order as requiring us to in-house
23 the pre-inspectors. When it says we shall employ our own cadre
24 of pre-inspectors that will be a sufficient number to support
25 the work being done by the tree trimmers, that is how we

1 interpreted the language. If that's not how the Court intended
2 the language, I appreciate that clarification.

3 **THE COURT:** Well, didn't I also say that you can come
4 -- I said specifically: Please get together with your experts,
5 please get together with the monitor and with the CPUC, and you
6 come back with a counter-proposal that -- and I used the word
7 "flexible." But, something that will address this problem that
8 I'm trying to get at.

9 And listen. You're not fooling me. Those pictures that
10 PG&E sent to me by court order after each PSPS, they were in
11 the hundreds. Hundreds of trees that fell on the distribution
12 lines in those windstorms. And, and, those trees should have
13 been cut. Those trees should have been cut or trimmed. And
14 yes, some of them maybe you couldn't have told that they were a
15 danger, but others you definitely could have. And you didn't
16 do that.

17 So the problem is still very real. The problem of trying
18 to find those trees and -- is a very real problem. And you are
19 falling behind on that. You're not -- so there is a backlog.

20 Please don't tell me there is no backlog. There is a
21 backlog. And it's going to take eight to ten years for you to
22 dig your way out from under the backlog that PG&E created by
23 paying dividends and executive bonuses instead of cutting the
24 trees when they -- that's what happened here.

25 All right. But I -- all right. I'll let you say --

1 because I made a little speech there, I'll let you go ahead and
2 respond.

3 **MR. ORSINI:** Thank you, Your Honor.

4 So, so again, what we said back in February was we were
5 running a pilot program. We didn't say we were bringing
6 everybody in-house. I have not stated, Your Honor, that
7 there's no one within PG&E that has this ability. There are.

8 As I just said a few moments ago, we are doing some of the
9 work verification and some of the quality assurance work
10 internal to PG&E with PG&E personnel. We interpreted the
11 Court's condition to suggest that we had to bring all the
12 inspectors in-house. If that's not what the Court meant and
13 the Court has now clarified that, we appreciate that.

14 I still do not believe the condition is appropriate. We
15 are working with the regulators to continually develop the
16 program and I think a statement that we have to employ a
17 sufficient number is vague, and will not permit us to continue
18 to develop the program, and be flexible in the way that we need
19 to be.

20 **THE COURT:** Tell me, how many people do you have in
21 the program now, and what do they actually do?

22 **MR. ORSINI:** I do not have those numbers available to
23 me as I stand here right now, Your Honor.

24 **THE COURT:** Do you have even a rough idea?

25 **MR. ORSINI:** I understand that there are -- well, I

1 don't, Your Honor. I don't want to give a number that is
2 inaccurate.

3 **THE COURT:** All right.

4 **MR. ORSINI:** As I said, the pilot program is under
5 way. But Your Honor, I have to -- and maybe we'll just have to
6 disagree on this, but I have to again strenuously object to the
7 characterization that any of this is the result of an eight- to
8 ten-year backlog. The record just does not support that,
9 Your Honor. There is no evidence that there is an eight to
10 ten-year backlog that we are still working through.

11 What we identified in terms of compliance issues that were
12 a carryover from last year were 22,000 trees, out of
13 1.3 million that had been worked. Of those 22,000 trees, there
14 are only 3,000 left. The overwhelming majority of which are
15 neither imminent hazards, nor trees that we can just go out and
16 just cut down, because there are permitting and third-party
17 issues associated with them that we are working through.

18 So the backlog from last year in terms of trees that are
19 even arguably out of compliance is 22,000. And those are being
20 addressed and worked down. There's not an eight to ten-year
21 problem here.

22 **THE COURT:** All right. Even if it's one year, that's
23 too much.

24 **MR. ORSINI:** Your Honor, respectfully --

25 **THE COURT:** No, wait a minute. Whenever PG&E burns

1 down another town, or burns down another neighborhood, people
2 ought to drag out your comments, and say: Oh, a one-year
3 backlog is 22,000 trees. Oh, that's nothing, we are addressing
4 them.

5 That's, that's the present participle tense, that's like
6 saying "The check is in the mail." You shouldn't have even one
7 tree in the backlog. How did you even get up to 22,000, to
8 begin with? Well, it's because you weren't doing your job.
9 You weren't doing your job. You weren't complying with state
10 law. So you are very good at making excuses, but you are not
11 good at complying with state law.

12 **MR. ORSINI:** And if I may, just in closing Your Honor,
13 I understand the perspective. We are in substantial
14 compliance, overwhelmingly.

15 The 22,000 trees -- you know, a calendar year is not
16 really relevant to the biology of a tree or when it's going to
17 present a safety risk. And as we explained, many of these
18 trees were trees that were identified late in the year. And
19 that are being worked in the ordinary course.

20 So, so, I understand the Court's perspective. I
21 respectfully disagree with it.

22 But I just want to close by noting again, Your Honor, that
23 we do agree fully with the general propositions articulated by
24 the Court that we cannot rest on the current program, and PG&E
25 is not resting on the current program. Our regulators are not

1 letting us rest on the current program. They have presented a
2 host of conditions and criticisms of what we put forward. And
3 we look forward to continuing to work with them to address
4 those issues.

5 **THE COURT:** All right. I -- I would like to give the
6 government an opportunity to speak, and then if time permits I
7 will let the amici speak. And I definitely want to hear from
8 the CPUC as well. So let's hear from the U.S. Attorney.

9 **MR. STERN:** Thank Your Honor. This is Noah Stern for
10 the United States. Just a quick housekeeping matter before I
11 start.

12 I don't believe Your Honor made findings about the
13 appropriateness of a telephonic hearing and whether PG&E waived
14 its right to an in-person hearing. I think that might be
15 appropriate.

16 **THE COURT:** All right. Well, does PG&E waive your
17 right to an in-person hearing?

18 **MR. ORSINI:** This is Kevin Orsini. We do, Your Honor.
19 We are satisfied with this telephonic hearing, and appreciate
20 the Court's indulgence.

21 **THE COURT:** Thank you for that.

22 And the finding is that because of the pandemic, COVID-19,
23 we have to proceed by telephone because there's too many people
24 interested in this and -- and the courtroom would be too full.
25 I hope that within a few weeks we will be able to have some

1 proceedings on the criminal side, and in the court. But we are
2 at a distinct handicap because of the COVID-19.

3 So thank you for that waiver. And I now make that
4 finding.

5 Okay. Go ahead, Mr. Stern.

6 **MR. STERN:** Thank you, Your Honor.

7 So just to summarize the government's position here, we
8 agree that you can impose enlarged conditions on PG&E.
9 However, we do think that those conditions should take into
10 consideration the state regulation. And we also think that
11 those conditions should take into consideration the new
12 inspection programs that PG&E asserts that it is running this
13 year. And we think that it makes sense to supplement the
14 record to further develop it with respect to those issues, and
15 to support whatever specific conditions the Court ends up
16 ordering.

17 I would also note that the government thinks that
18 Your Honor's suggestion that PG&E could submit a plan that
19 would accomplish, I guess, the essence of the new conditions
20 seems to be a very reasonable suggestion. And listening to
21 Mr. Orsini's discussion with the Court, the government thinks
22 that it may be that if PG&E had submitted a plan or submitted
23 what it had already been intending on doing, that it's possible
24 that that may have satisfied many of the Court's concerns.

25 So, just, now I'll talk a little bit more about those

1 things. I want to be very clear that the government shares the
2 Court's interest in imposing probation conditions on PG&E to
3 protect the public. And the Court has very broad discretion in
4 developing and imposing conditions of probation, and it can
5 modify or enlarge those conditions without any change in
6 circumstances.

7 Here, there's certainly been a change in circumstances,
8 and the Court's order cites to numerous facts that support
9 enlarged conditions with respect to PG&E's inspection programs.
10 The Court pointed out in its order that with respect to
11 distribution lines, the federal monitor identified numerous
12 dangerous conditions that were missed by PG&E's contractors.

13 And with respect to transmission lines, the Court cited to
14 substantial evidence that inspections missed dangerous
15 conditions. That includes inspections on the transmission
16 tower that was one of the causes of the Camp Fire which led to
17 PG&E recently pleading guilty to 84 counts of manslaughter.

18 The government disagrees with PG&E's federalism arguments.
19 PG&E appears to be arguing that the conditions are unlawful
20 because they inherently interfere with the state regulatory
21 scheme. That argument, taken to its logical conclusion, I
22 think would bar a court from ever imposing a substantive
23 probation condition on a regulated company.

24 And it's not clear why PG&E's arguments wouldn't apply
25 equally to probation conditions that are already in place, from

1 the imposition of the federal monitor itself, to the condition
2 the Court ordered this last fall that required PG&E to provide
3 a \$3 million fund for San Bruno to use for wildfire -- a
4 wildfire mitigation project. Each of those conditions relate
5 to PG&E's use of finite resources. But PG&E did not argue that
6 they were clearly unlawful because they infringed on the CPUC's
7 prioritization of those resources.

8 The cases that PG&E cites also do not support its broad
9 arguments. Rather, they just support the proposition that
10 conditions that implicate federalism concerns are more closely
11 scrutinized by appellate courts.

12 For that reason, and because PG&E has argued here that the
13 conditions would essentially -- I think Mr. Orsini said would
14 displace the CPUC's regulations, the government believes that
15 it's appropriate for the Court to solicit the input of the
16 CPUC. This would be consistent with the recommendation in the
17 sentencing guidelines that the Court do that. And it may also
18 inform whether the conditions interfere with or undermine the
19 regulatory scheme, and if so, to what degree. This input would
20 also be relevant to the next issue, which is whether the
21 conditions are reasonably necessary to protect the public.

22 And on this issue, the government's view is that the Court
23 should supplement the record about the feasibility and the
24 likely effectiveness of the specific conditions ordered.

25 There's a lot in the record supporting the imposition of

1 new conditions, generally. But a lot of this also may not
2 account for the new programs that PG&E is implementing. And
3 the vast majority of the record relating to how the specific
4 conditions would work was submitted by PG&E in opposition to
5 those conditions. I think PG&E submitted around eleven
6 declarations from its employees and experts with its motion,
7 who state, as Mr. Orsini has detailed in the hearing today,
8 that some of the conditions might not be feasible or may confer
9 no safety benefits.

10 And then, they also highlight the changes that PG&E's
11 already making. These are very complex issues. And the United
12 States isn't in a position to dispute the expert evidence that
13 PG&E has offered with respect to the specific conditions. And
14 so for those reasons, the government is suggesting that the
15 Court supplement the record with additional evidence.

16 One of the ways the Court could do that is it could ask
17 the federal monitor to obtain opinions from its experts about
18 the feasibility and effectiveness of the conditions. I think,
19 as everyone's aware, the monitor has been working closely with
20 PG&E on its inspection processes. These experts may be
21 well-positioned to opine on whether the new conditions are
22 reasonably necessary, in light of the changes that PG&E is
23 already making. The Court could also invite other PG&E
24 stakeholders to submit their views.

25 This additional information might support the specific

1 conditions that the Court has already ordered. It could
2 support different conditions, or none at all. But I think the
3 Court will be in a better position to support its ruling on a
4 more full record.

5 So for all of those reasons, the government's position is
6 that the Court should for now, extend the stay of the
7 conditions that it ordered, and seek to supplement the record.

8 **THE COURT:** Okay. Thank you, Mr. Stern.

9 Let me hear from Ms. Hammond for a moment.

10 Ms. Hammond, how up to speed are you on the proceedings
11 that have gone on in our court over here? I know you are
12 attending as a courtesy to the Court, so I don't want to
13 presume that you are up to speed on everything, but maybe you
14 are. So I would like to give you a chance to say your piece.

15 Go ahead.

16 **MS. HAMMOND:** Sure. Thank you, Your Honor.

17 The CPUC is not a party to this proceeding. We don't
18 receive courtesy copies of any filings. It's up to us to try
19 to keep up and monitor whatever is docketed. So we are trying
20 to keep up with what's being filed.

21 There has been a flurry of activity in California at the
22 state level and the legislature, here at the CPUC, and I would
23 like to update the Court on some of the recent activities and
24 actions and orders, since the CPUC last spoke to the Court.

25 But I do want to start off with saying that we do find

1 ourselves in this unusual position of weighing in on a criminal
2 probation overseen by this United States District Court. It is
3 very important to the CPUC that the Court and the Commission
4 don't find themselves in a jurisdictional dispute as a result
5 of PG&E's filings.

6 We are primarily concerned with the revised conditions of
7 probation, if any, that could be at odds with the utility
8 regulators' comprehensive jurisdiction over PG&E. And with any
9 revised conditions of probation that could have unintended
10 consequences that we may not even be aware of or can
11 anticipate, that would be detrimental to the public health and
12 safety. But the CPUC is willing to help supplement its 2019
13 filings, and give you this update on what the State has been
14 doing for the Court's record.

15 There's about seven or eight items. I will quickly go
16 through that list. Your Honor may be aware of many of the
17 things that have happened. Of course, last year's passage of
18 AB1054, and the creation of the Wildfire Safety Division, about
19 which Your Honor has already asked.

20 There are now 2020 wildfire mitigation plans that are teed
21 up for approval with conditions. And those conditions are
22 recommended by the Wildfire Safety Division, because that
23 division identified tremendous deficiencies in PG&E's filings.

24 The Wildfire Safety Division is like a division, a
25 looking-over-the-shoulder set of eyes and regulator like we've

1 never had before. What has proven to be effective 20 years ago
2 that showed weaknesses and then showed failures more recently
3 is now being addressed through AB1054, and increased
4 regulation. And that is driven primarily through the Wildfire
5 Safety Division.

6 They're pretty much just getting up and running. They
7 started inspections two and a half weeks ago. In two and a
8 half weeks, they have conducted, I think, something like 50
9 inspections already. Looking over the shoulder of PG&E's work.

10 Their focus is on system hardening, it's what we refer to
11 as improving the assets; the PSPS events; and enhanced
12 vegetation management. And this is going to be a tremendous
13 and robust organization.

14 The third thing that I wanted to update you on are just
15 ongoing audits, citations and investigations. Those are tools
16 that have long been at the CPUC's disposal, and we have been
17 using them. Most recently last month, in the issuing of a
18 final order in the investigation into the 2017 and 2018
19 wildfires that PG&E was responsible for. Although PG&E did not
20 admit fault or violations in that proceeding, it was a
21 settlement that was adopted, with modifications. And it
22 resulted in a fine -- a penalty, total penalty of about -- over
23 \$2.1 billion.

24 Now, there has been some discussion by amici about a fine
25 being suspended. That does not diminish the fact that PG&E

1 will be paying for \$2.1 billion of penalties. And there is a
2 larger reason behind the suspension of the fine. And that has
3 to do with not drawing down funds for the victims compensation
4 fund that is being addressed in Bankruptcy Court. So, I don't
5 know if Your Honor was aware of that, but there is a final
6 decision that was voted out last month.

7 Your Honor, this morning, the CPUC is holding a business
8 meeting to consider a proposed decision approving -- a decision
9 on resolving PG&E's bankruptcy plan that the CPUC has to
10 approve. And it is imposing a number of conditions on PG&E to
11 improve the safety performance. And there is a plan of
12 enhanced enforcement. And it is a six-step process. It
13 progressively demands greater performance and compliance by
14 PG&E.

15 Ultimately, there is a path, if PG&E continues to fail on
16 the safety front, for the CPUC to impose the ultimate option,
17 as identified in the decision. And that is to revoke their
18 license. But that's not one of the first things that the
19 Commission would consider. It's very important from the
20 Commission's perspective that power continues to be delivered.
21 That is a core safety consideration. It has to be delivered
22 safely. It has to be delivered affordably. But it has to be
23 delivered. And not delivering power is not an option. And
24 that's something that the CPUC did stress last year to the
25 Court.

1 There is an additional proposed legislative action.
2 There's a Senate Bill 350, that's proposed in the legislature.
3 And that is supposed to dovetail with an option of the CPUC
4 asking for a receiver to step in, should we ever reach that
5 point. But the goal in the immediate future and in the near
6 future is to do more, do it better, do it faster. And to
7 continue to have power delivered safely.

8 **THE COURT:** Can I ask you a question on that?

9 Are you -- of course I think everyone would agree, we need
10 to keep the power going. But are you saying that you're going
11 to stop the PSPS process?

12 **MS. HAMMOND:** Not at all. Not at all. In fact,
13 there's a decision that's also pending a vote today that is
14 supposed to improve the PSPS process. There is also an
15 investigation into how PG&E handled their PSPS events last
16 year. And it's all designed to improve, to narrow, to broaden
17 where necessary, um, just to continue to improve the PSPS. But
18 in no way is PSPS off the table. In fact, it's only going to
19 be improved. We hope.

20 **THE COURT:** Okay. Good. Please continue.

21 **MS. HAMMOND:** Sure.

22 I just want to talk a little bit about the discussion that
23 amici raised about PG&E -- the emphasis on PG&E's financial
24 stability. And none of the considerations that we talk
25 about -- financial stability, safety, enhanced vegetation

1 management -- can be considered in isolation.

2 Financial stability is necessary to continue to have
3 operating, (inaudible) expense, working capital. The system
4 has to continue to keep operating.

5 Part of AB1054, part of the wildfire investigation
6 settlement, part of the wildfire mitigation plans, part of the
7 CPUC's ongoing regulation of PG&E, involves continued
8 expenditures to harden the system, to make improvements. And
9 that all requires money.

10 Now, Your Honor, we all know we're in this COVID-19
11 pandemic. And many, many Californians are finding that they
12 can't pay their bills, including the utility bills. And one of
13 the (inaudible) the CPUC has done is instructed utilities not
14 to disconnect customers because they can't pay as a result of
15 the pandemic.

16 Now, that's cutting into the revenues of each of the
17 utilities, and the ability to continue to make safety
18 improvements and to comply with the wildfire mitigation plans.
19 I say this only to emphasize that no one mitigation measure,
20 conditions of probation, or any isolated CPUC action or order
21 can be viewed in isolation.

22 If I may, Your Honor, I just wanted to say a couple more
23 things. The wildfire mitigation plans that are teed up to be
24 approved with conditions represent an attempt to improve the
25 wildfire mitigation plans. We're learning, we're improving,

1 we're demanding better. And we -- we want to be better. And
2 we -- we and the State expect us to be better.

3 But the conditions can't be immutable. We will continue
4 to learn more information. We may identify new high-risk
5 situations that we are not aware of now, and attention may need
6 to shift in that direction, just as we're triaging.

7 And so the concern that the CPUC has is that the revised
8 conditions of probation may hamper the ability to pivot as
9 necessary. And then address any given issue in the appropriate
10 order.

11 And I finally want to say that the CPUC has open
12 proceedings, they're open to the public. There's noticing
13 requirements. On PG&E's 2020 wildfire mitigation plan there
14 were, I think, something like 13 formally submitted comments
15 and wildfire mitigation plans, maybe mod- -- not modified, but
16 conditioned in response to some of the comments.

17 It's not just any one party's particular interests that
18 the CPUC would take into consideration. There is constantly a
19 balancing of interests between differently situated customers,
20 differently situated members of the public. And in all
21 circumstances, safety is the priority.

22 But the nature of public utility regulation does demand
23 hearing from the different voices at the table. And, and, and
24 there is a particular emphasis on hearing from communities that
25 usually don't have a voice. They don't have the financial

1 resources. Disadvantaged community (inaudible). And that's a
2 part of the process that unfortunately is not near in this
3 criminal probation. And it's not to be expected to. CPUC is
4 the home for that public process. It's for public input.

5 I think I'll stop there. I'm happy to answer any more
6 questions.

7 **THE COURT:** Thank you. I appreciate that. That was
8 good information for the Court to learn.

9 Ms. Hammond, I'm going ask you a question whether or not
10 you would be willing to submit a brief or statement to the
11 Court.

12 Let me just tell you what -- somebody is making noise on
13 the -- on the line. It sounds like ripping paper off or
14 something.

15 Please, here is what these two new conditions are trying
16 to get at. And what I'm going ultimately to ask you is: Okay,
17 do you agree that these are problems? And even if they are
18 problems, maybe you already have a solution to them that I
19 don't know about yet, and that I should just defer to the CPUC.

20 So I -- that would be grand if you did, in fact, have a
21 solution. But there are two sets of problems. One is --
22 concerns the distribution lines. The other concerns the
23 transmission lines.

24 On the distribution lines, which is the lower ones, of
25 course, the ones where -- that are down -- where the trees can

1 fall on them, the problem is the trees do fall on them. And
2 then they -- because they're uninsulated. And there's nothing
3 wrong with being uninsulated, but when they fall on the lines
4 they spark, they -- in the dry summers, the spark falls to the
5 grass, catches the grass on fire, and immediately we have a
6 grass fire. I don't have to explain that to you. I know you
7 understand that. And the whole purpose of the public utilities
8 code, the Public Resources Code, was to have enough clearance
9 from the trees that that wouldn't happen.

10 Well, there's a backlog. We disagreed a moment ago about
11 how big the backlog is and how many years it accumulated, but
12 you can just look at the record. The 2017 fire was started by
13 trees falling on the lines. The Butte County Fire, the
14 Camp Fire, one of the (inaudible) causes were the same thing.
15 The other one was a transmission line.

16 I, myself, drive around through the chaparral region of
17 the state of California, and I can -- on any given day I could
18 bring back a dozen photographs of the PG&E lines that are
19 running through, right through trees. They're not -- they're
20 not in compliance with the state law. Anyone could send you
21 those.

22 Now, I want to say, I have seen many PG&E contractors out
23 there cutting the limbs. And, good for them. Because PG&E has
24 been trying to address the backlog. So, I am not saying
25 they're not doing that. But, but, then we come to -- I sent

1 out the monitor to spot-check the work. And to use a simple
2 phrase, the work that was being done was crappy. C-R-A-P-P-Y.
3 The monitor found numerous examples where the work was not done
4 properly. So we reported that to PG&E, and then PG&E goes back
5 and tries to address that problem.

6 Well, the -- so the issue is potential miscommunications
7 and misdirection because PG&E is outsourcing all of this work
8 and does not have in-house any of the people who are doing the
9 pre-inspections, nor, for that matter, the post-inspections, to
10 designate what work needs to be done to be in compliance with
11 state law, and for that matter, the wildfire mitigation plan.

12 And so then the contractors are supposed to do the work,
13 and then somebody double-checks to make sure that that work was
14 done. I am firmly of the -- I am firmly of the view that the
15 quality of the work that is being done now, even though it is
16 in -- it is vastly ramped up over what it was a year ago, the
17 quality of the work is not good. And there are too many
18 mistakes, and we need a way to check it in advance.

19 By that, I mean that someone skilled goes in there from
20 PG&E and says "Cut this tree, cut that tree, trim that tree."
21 And you have a consistent flagging system with color-coded
22 flagging and a GPS system. But the system that PG&E has in
23 place now are not working. And it's not just that there's an
24 occasional error; there are a lot of errors. And the monitor
25 found those errors. So that's one set of problems. One set of

1 problems concerns the quality of the vegetation management, and
2 the tree-cutting and tree-trimming, that's what it comes down
3 to. And I guess also the hardening, that's a separate problem.
4 Okay. So that's one set of problems related to distribution.

5 The second set of problems relates to transmission lines
6 which are way above the treetops. There's no tree problem
7 there. But there is a problem with the towers. And there seem
8 to be at least two instances now, the Kincade as well as the
9 Butte County, where massive fires have started. And when you
10 try to get -- go behind it, we have the same scenario. PG&E
11 trots out the inspection reports; the inspection reports say
12 everything was checked. But they're in such vagueness that it
13 is impossible to go behind it and find out what really
14 happened.

15 And PG&E keeps saying: Nothing is perfect, we did our
16 job, PG&E -- Look. The report said everything was fine. But
17 we know something is wrong. We know that they're not spotting
18 all the things that need to be fixed.

19 So the second major point is: How do we fix that
20 inspection system so that it has a better chance -- not a
21 perfect chance, but a better chance -- of finding the things
22 that are about to go wrong, so that we avoid another
23 catastrophic fire from the transmission lines?

24 So that one is: How do we fix the inspection process and
25 the inspection reporting process and hold people accountable

1 for -- if they didn't do the inspection right, then they're
2 accountable. So we can pinpoint what went wrong, so we'll know
3 next time that's -- to avoid that problem.

4 It's a run-around now. At least, at least I get the
5 run-around in court. I don't know what the PUC gets. But when
6 these things happen, the lawyers are highly paid, and they're
7 beautifully trained, and they do a great job, but it's a
8 run-around. The same thing: Nothing is perfect, Judge; we had
9 inspections reports; the inspections reports said everything
10 was fine; it's impossible to do what you want to do, Judge. So
11 we never have a suggestion to improve the thing.

12 Anyway, I'm getting off, myself, on a broken record.
13 Here's what I want you to do. How would you fix -- how does
14 the PUC propose to fix these things? Or maybe you think they
15 don't need to be fixed. Or they're already fixed. But there's
16 -- these are the two problems. One is -- I'll just summarize
17 them in one sentence each.

18 On the distribution lines, it's the quality of the work
19 that is being done now is not good enough. There are too many
20 errors. And how do we fix that? I thought we could fix it by
21 expanding the program that PG&E told me it already had in
22 place, which was pre-inspection. Okay. If you don't like
23 that, what would you do? Or maybe you think it's -- it's okay
24 now.

25 The second one is transmission lines, and the inspection

1 process, and how do we -- how do we strengthen that to find the
2 mistakes before they happen, and to impose accountability when
3 they do happen?

4 So it's not -- to me, if the PUC came back to me and said
5 "Judge, these are -- these problems are under control and
6 here's how we are going control it and here's how -- the
7 conditions, you know, the Wildfire Safety Division has imposed,
8 they specifically addressed these problems and give those a
9 chance," I probably would go along with that. I would go along
10 with that. But all I ever hear from PG&E is a broken record
11 saying -- they never have a single positive comment. All they
12 do is -- is the same broken record.

13 But if the PUC were to say "You think you've got this
14 under control, Judge, and you don't need to do this," I'd very
15 likely defer to your judgment on this. But it's got to be
16 something concrete that I can understand. And yeah, that looks
17 pretty good. I'm glad that the PUC is -- so, would you be
18 willing to send me a brief on that subject?

19 Please. Go ahead.

20 **MS. HAMMOND:** Um, yes. We are willing to help the
21 Court understand what the State is doing. I'm not sure that we
22 would say, ourselves, everything is under control. There is a
23 tremendous and concerted effort to get safety, get the state
24 safe. And we are trying to get ahead of the problem. The
25 tools that traditionally have been at our disposal like

1 penalties and fines, it is not -- we're not getting ahead of
2 the problem. We are trying to get ahead of the problem now.

3 And there aren't necessarily specific actions that the
4 CPUC may want to put forward, but we are willing to help the
5 Court understand exactly what we're doing. And understand --
6 help the Court understand the tools that the State has at its
7 disposal and is considering in the event that we don't see
8 improved safety.

9 **THE COURT:** Well, I appreciate that. In addition, I
10 invite to you explain to me why -- and it may be true, but to
11 explain to me why any additional conditions even in the
12 ballpark of what I'm suggesting would somehow hamper the CPUC
13 in doing its job. I don't want to hamper the CPUC. So if that
14 -- I want you to help me on that point, too.

15 Well, okay. How long do you need to do that brief?

16 **MS. HAMMOND:** Is two weeks acceptable to the Court?

17 **THE COURT:** Two weeks will be fine. And I appreciate
18 it because I -- we're very close to the -- the next wildfire
19 season is less than a month away. So, yes, two weeks will be
20 fine. I appreciate that.

21 **MS. HAMMOND:** Thank Your Honor. And we, too, are
22 feeling that urgency.

23 I misspoke about the number of inspections that have
24 already been conducted by the Wildfire Safety Division in its
25 two and a half weeks in. It's -- they've actually conducted

1 200 field inspections.

2 **THE COURT:** That's good. I wrote down 50, but the
3 200, that's even better. Yeah. Good for the inspectors.

4 **MS. HAMMOND:** And they're slated to have a total of
5 about 1,500 this year.

6 **THE COURT:** And the inspections are of work that's
7 already been done? Or of work that is about to be -- what are
8 they inspecting?

9 **MS. HAMMOND:** I believe it's work that's being
10 conducted as it -- as the improvements are being done. But I'm
11 happy to make that clarification.

12 **THE COURT:** Okay. Here, it would be good to know, is
13 that inspecting the -- the hardening of the system? Is it
14 inspecting vegetation management? And that would be very
15 useful for me as well as the public. I hope you can make this
16 a public document so that the public will get the benefit of
17 it.

18 All right. So thank you for that. Okay. Can I -- do you
19 have anything more, Ms. Hammond, to say? Or I'll move on to
20 the amici.

21 **MS. HAMMOND:** Not at the moment. Your Honor probably
22 remembers that amici did try to have the Cannara case referred
23 to Your Honor, and Your Honor considered that request and
24 declined it. These are active litigants in a case that is
25 before Judge Donato. And I just wanted to make that statement.

1 Thank Your Honor.

2 **THE COURT:** Yeah, I think I remember that, but I --
3 all right.

4 So, now, the amici doesn't get as much time --

5 **UNIDENTIFIED WOMAN:** Do you guys have rubbing alcohol?

6 **THE COURT:** What was that about rubbing alcohol?

7 **MR. WILKINS:** That was my mother. I apologize for
8 that, Judge Alsup. This is Antwan Wilkins. That was my mom.

9 **THE COURT:** I can't give you much time because you
10 submitted a big brief. But I'll give you two minutes to weigh
11 in. Go ahead.

12 **MR. WILKINS:** Okay, um -- I'm here on behalf of --

13 **UNIDENTIFIED MAN:** Excuse me, that is not the amici,
14 Your Honor, speaking there.

15 **THE COURT:** Who is it that was speaking?

16 **MR. WILKINS:** This is Antwan Wilkins. I'm calling on
17 behalf of David Rizk, my lawyer.

18 **MR. RIZK:** Your Honor, this is David Rizk. Sorry.
19 We're on the next case.

20 Antwan, can you please mute your phone? This is another
21 case. Thank you.

22 **MR. WILKINS:** Okay, I'll mute it. I apologize.

23 **THE COURT:** All right. I have another case I've got
24 to go to. I'm sorry, counsel.

25 But amici, give us your name, and then you have --

1 **MR. AGUIRRE:** Your Honor, my name is Michael Aguirre.
2 And I have been litigating these wildfire issues since 2009
3 with PG&E.

4 Your Honor, you're not being told a big part of the
5 puzzle. And PG&E is not putting their cards on the table.
6 Behind the scenes, PG&E is heavily influencing the Public
7 Utilities Commission.

8 This is something PG&E said back in August of 2016
9 (As read):

10 "While we are very much focused on the future, we
11 will never forget the lessons of the past. We have
12 made unprecedented progress in the nearly six years
13 since the tragic San Bruno accident, and we are
14 committed to maintaining our focus on safety."

15 PG&E is not focused on safety. They are focused on how to
16 pay for the fires. Your Honor's rulings has been focused on
17 how to stop the fires. And I think it's imperative -- I'd ask
18 Your Honor -- I know you said I could only have two minutes.
19 But I think it's very imperative that Your Honor understand
20 that the reason that the insurance companies are not writing
21 insurance for PG&E is because they have absolutely no faith in
22 PG&E's program for preventing future fires.

23 1054 did away with the most important prudence rule, the
24 most important safety rule we had, which is that the utilities
25 could only recover if they proved that they were prudent in

1 connection with the fire. That's gone now, and that's been
2 replaced, at the behest of PG&E, with a presumption that they
3 acted prudently.

4 So for example, with the Camp Fire, if the Camp Fire were
5 to have happened after July of 2015, then PG&E would have been
6 given a presumption that they acted reasonably, and they could
7 recover for their uninsured costs.

8 The other part of 1054 is they imposed on the utility
9 customers a \$13 1/2 billion charge, without any kind of
10 fairness in terms of any hearing, to make the utility customers
11 pay in the future. PG&E doesn't even believe that it's going
12 to cause -- or not cause fires in the future.

13 PG&E has something that they have developed called the
14 Fire Prediction Index, where they have taken all the various
15 factors, and they have shared that secretly with the Governor's
16 staff in connection with 1054.

17 Your Honor, I would urge Your Honor to allow us to file
18 some additional papers to tell Your Honor what else you might
19 want to ask for. Number one, the disclosure of all PG&E's
20 communications to the PUC via the Governor's office, so you
21 could understand how PG&E is, in fact, influencing the CPUC.

22 The CPUC, in its August 23rd approval where they issued
23 the fire safety certificate to PG&E, they said -- the PUC said
24 explicitly that they recognize what Your Honor was doing, and
25 that they were going to follow the direction of Your Honor.

1 And that's what the executive director said in the August 23rd
2 letter. PG&E -- PG&E is not committed to stopping the fires.
3 And when you listen to them carefully, they make excuse after
4 excuse.

5 The reason that your idea of having an in-house inspector
6 makes sense is because that creates a corporate memory. That
7 creates internal records that they can't hide or dispose of
8 through their independent contractors.

9 They need to have a core of people trained to do this on
10 an everyday basis. If anything, they need to expand the number
11 of inspectors so that they can main- -- their inspectors should
12 have a catalog of all of their high-fire-danger area
13 vegetation-management issues as well as the transmission
14 issues. They should have a catalog of that. There should be
15 people assigned to specific areas of the state in order to
16 avoid that.

17 But what PG&E is doing now is if they -- if they cause
18 another fire in 2020 or 2021, that -- the full cost of that
19 fire will automatically be paid by utility customers. They are
20 already being forced to pay \$13 1/2 billion into this wildfire
21 fund.

22 And if you just step back for a second, and you look at
23 what Your Honor started in January of 2019, every step along
24 the way, PG&E has brought the CPUC in to act as their defender.

25 There was -- the investigation that the staff -- and the

1 staff of the CPUC, in my experience, does have integrity and
2 can be relied upon, but the -- the Department of Safety
3 Enforcement, they did conduct an investigation of PG&E's
4 activities in 2017 and 2018. They found that they caused 14
5 fires. They committed 44 violations of General Order 95. And
6 in doing so, they did not penalize them.

7 The idea that -- they said: Oh, we're going to disallow.
8 Well, they disallowed what was never allowed, to begin with.
9 There was no penalty imposed.

10 And with regard to -- with regard to the investigation,
11 itself, I would recommend that Your Honor ask the safety
12 enforcement division personnel that actually conducted that
13 investigation, have them come before Your Honor, put them on
14 the witness stand, and give Your Honor a chance and maybe amici
15 a chance to examine them so you can find out what's really
16 happening.

17 The staff wants to do the right thing. And the staff is
18 developing the capability. But what I hear from the staff is
19 they're very, very upset about the fact that the CPUC, which is
20 supposed to be an independent investigative commission, that
21 function is now going to be transferred over so it'll be
22 directly under the Governor. So the PG&E, with its lobbyists,
23 goes to see the Governor.

24 They had -- PG&E had 15 secret meetings with the
25 Governor's office between January and July of 2019, where they

1 put together the plan to do away with the prudence standard and
2 to impose the \$13 1/2 billion penalty.

3 So I'm a former Assistant U.S. Attorney. And I'm going to
4 close here, Your Honor, but I'm a former Assistant U.S.
5 Attorney in the Organized Crime/Fraud Section in the U.S.
6 Attorney's office in San Diego. And as I was listening to the
7 counsel for this convicted felon that has killed over a hundred
8 people make excuses, I was just thinking: What would Judge
9 Enright, Bill Enright, have done, if he were to listen to
10 somebody on probation like this make those kinds of excuses?
11 Let me tell you, he would have done exactly what Your Honor is
12 doing.

13 There is no room for laxity. Your Honor is being given --
14 I would say false information, certainly misleading
15 information, by PG&E. I'm disappointed that the U.S.
16 Attorney's office has not been more vigilant -- and I don't
17 mean to put them down, but they should be more vigilant and
18 more aggressive in getting a focus on -- there's going to be
19 people that are going to be dead in a year. Dead in two years.
20 And I'm just wondering what they would think if they come back
21 and they listen to this discussion today and wonder why
22 Your Honor is not sticking with what you've done, which was
23 designed to protect them.

24 So I have much more to say, Your Honor, but I know about
25 each one of your -- every single one of your conditions should

1 absolutely be put into effect, and the CPUC should adopt them.
2 Because they will get at the heart of the problem.

3 Final comment. Your Honor wants to stop the fires. PG&E
4 wants to figure out a way to pay for the fires. That is the
5 dichotomy. And that cannot allow to stand. PG&E cannot use
6 its political muscle to go to the Governor's office, the
7 Legislature, get its way with them while they're delaying you,
8 because all they want to do is get past the probationary
9 period. It's just a stall action. Stall it out, stall it out.

10 Even, Your Honor, when you asked Ms. Hammond if she would
11 come forward with your very reasonable request and have the
12 staff of the Safety and Enforcement Division explain how you
13 might get to those two specific conditions, the distribution
14 and the quality issues, how you might get there, there's no
15 reason why they can't come in and have their staff come in and
16 work with Your Honor, work with amici, work with the various
17 parties to come up with a plan. But that's not the goal.
18 That's not what PG&E has told them to do.

19 And Your Honor, I would just -- I want to just say how
20 much we admire Your Honor, and hope that Your Honor will keep
21 the pressure on, and not allow this misinformation to mislead
22 you.

23 **THE COURT:** Thank you. I have a -- something you
24 said, I need to go back to Ms. Hammond.

25 Ms. Hammond, are you still there?

1 **MS. HAMMOND:** I am, Your Honor.

2 **THE COURT:** All right. Just clarify for me and the
3 public on this point.

4 Earlier you had said that the Commission had imposed a
5 \$2.1 billion -- you called it a penalty.

6 **MS. HAMMOND:** Yes.

7 **THE COURT:** And then you also referred to a fine. But
8 now Mr. Aguirre was saying that the Commission suspended
9 everything.

10 So is that 2.1 billion actually going to be paid by PG&E,
11 that penalty? Or has that been suspended?

12 **MS. HAMMOND:** It's \$2.1 billion in disallowances. So
13 they are required to (inaudible) shareholders pay for any sort
14 of repairs, replacements as a consequence of the fires, and any
15 sort of upgrades that are necessary to improve safety. It will
16 not be paid for by ratepayers. It will be paid for by
17 shareholders. And that is --

18 **UNIDENTIFIED MAN:** That -- I'm sorry. Excuse me.

19 **MS. HAMMOND:** Yeah. And that is the penalty.

20 There was also talk about the use of the different
21 penalizing tools available to the Commission. It could be in
22 the form of disallowances. And fines are another option.
23 Fines are paid for by shareholders. And they go to the general
24 fund.

25 And so a decision was made to focus the punitive effect

1 towards making improvements to the system, rather than money
2 going to the general fund.

3 **MR. AGUIRRE:** But Your Honor, they're disallowing what
4 was never allowed. That's total sophistry. There's no
5 specific order that says that -- or agreement on the part of
6 PG&E that they're going to make \$2 billion worth of
7 improvements, safety improvements. And therefore, they're
8 going to have to pay that, themselves. That's all just left up
9 in space. It's -- it's pure sophistry. They're disallowing
10 what was never allowed to begin with. So PG&E never had the
11 obligation to pay anything, to begin with.

12 And the one thing that the Administrative Law Judge
13 ordered was a \$200 million fine. \$200 million fine. The only
14 -- the ALJ for the CPUC said they should at least be ordered to
15 pay \$200 million. And that was permanently suspended, ten days
16 ago.

17 There is no interest on the part of the CPUC to do
18 anything other than to carry out the will of PG&E. It's what
19 Justice Ginsburg calls a "captured agency." And Your Honor,
20 that's what you are dealing with.

21 And if you would allow us -- you know, we've literally
22 been litigating on these issues since 2009. We've gone up to
23 the Supreme Court, we've gone to the California Supreme Court,
24 prevailed in both courts, when PG&E tried to undo the
25 prudent-person standard in the courts.

1 And when they failed to do that, they went to the
2 Governor's office. They had 14 secret meetings with the
3 Governor. They introduced 1054. They introduced 1054 on
4 July 12th, and it was passed in a week. No meaningful
5 hearings. Then it went over to the CPUC. No evidentiary
6 hearing. No impartial tribunal, no cross-examination. They
7 simply enforced it. And they had the gall to claim that that
8 was going to save utility customers money. A \$13 1/2 billion
9 charge, \$900 million for the next 15 years, with no hearing.
10 And that's what the focus has been.

11 And I think -- so, Your Honor, I mean, this -- if you are
12 being lied to, if the CPUC is not playing straight with you,
13 and you're thinking that you can trust them to regulate PG&E,
14 you can't. And all they're going to do -- you're going to lose
15 your authority over this case in a couple of years. Once they
16 get past that, it's back to business as usual.

17 And I -- I respect the very able counsel for PG&E, who has
18 a very difficult case, did an excellent job of confusing the
19 issues, as an able advocate. But I will tell Your Honor right
20 now, if anything, I would come back and say this. Have the
21 Safety and Enforcement Division personnel who oversaw the
22 investigation into the 2017 and 2018 fires, have them come in
23 and make their presentation, and ask DA Ramsey to share his
24 investigative materials, who's done a fantastic job, have him
25 share his grand jury information about what he found about what

1 P&E did and didn't do in connection with the Camp Fire, and
2 then make your decision about whether PG&E should be held in
3 contempt of the court.

4 And I think until PG&E officers, until PG&E major
5 officials are personally held accountable, we're not going to
6 stop these fires. And if we don't stop the fires, we're going
7 to have many more deaths in the future, Your Honor. Many more
8 deaths.

9 Mr. Ramsey told me the story of a mother and a grandmother
10 and a child, and they were on the phone as the fire was closing
11 in on them in Paradise. And they were -- they were, you know,
12 beseeching someone to come and help them as their lives just
13 faded away and they were burned to death. And that's not --
14 that will happen again.

15 Even the Governor said, even the Governor said, in
16 connection with the -- in connection with, you know, whether
17 PG&E was at fault or what their attitudes were, this is what
18 the Governor said (As read):

19 "For decades, PG&E failed to prioritize public
20 safety. Their lack of safety investments left PG&E
21 and nearly half of California with an anticipated
22 electrical system that is vulnerable to weather
23 events and not able -- not at all prepared for the
24 more extreme weather associated with climate change
25 that has been predicted for the past several

1 decades."

2 That's coming from the Governor, who is one of their
3 closest allies.

4 So again, Your Honor, I think that they have managed to
5 confuse the record. I've gone back and I've read every single
6 one of your orders to show cause --

7 **THE COURT:** Mr. Aguirre.

8 **MR. AGUIRRE:** Yes, Your Honor.

9 **THE COURT:** I'm giving you an Academy Award, because
10 you have the great gift, when you come to the end of a sentence
11 you immediately start a new sentence --

12 **MR. AGUIRRE:** Okay, I'll stop.

13 **THE COURT:** I can't get a word in edgewise.

14 **MR. AGUIRRE:** All right. I'll stop, Your Honor.
15 Sorry.

16 **THE COURT:** I've given you 20 minutes, instead of two
17 minutes. I'm not diminishing the seriousness of what you're
18 saying. But I am -- I have to bring it to a close.

19 **MR. AGUIRRE:** Very well.

20 **THE COURT:** All right. The CPUC in two weeks will
21 give me their brief.

22 I am asking -- not just asking, ordering PG&E to give me a
23 brief in two weeks that addresses the same subject. And that
24 is: How can we solve the two problems that I've put on the
25 table, and instead of making a long list of excuses, explain to

1 me what specifically is different that you're doing now or will
2 do that will solve those problems.

3 And I'm asking the U.S. Attorney to give me a brief in two
4 weeks. And the monitor to give me a brief in two weeks. And
5 Mr. Aguirre, you can submit a brief in two weeks.

6 I want to put a page limit of 25 pages on each brief, with
7 the exception of the CPUC. If you want to add to it, you can.
8 But for everybody else, I think, you have submitted so much
9 already that the 25 pages will be enough. And I will -- I look
10 forward to reading all of that in two weeks.

11 We will very likely have another hearing. Maybe not; I
12 don't know. I'll have to see, read the briefs. In the
13 meantime, the stay of the conditions will -- will remain in
14 effect, because I want to be fair to PG&E. I want to consider
15 all of the -- these points and I -- I respect PG&E's right to
16 due process.

17 So --

18 **MR. FILIP:** Your Honor, Your Honor, this is Mark
19 Filip. Could I make one suggestion for your consideration,
20 sir?

21 **THE COURT:** Yes. Please, go ahead.

22 **MR. FILIP:** My fear is you're going to get 125 pages
23 of briefs passing in the night. And to me, the greatest
24 positive of this effort that you have initiated is that it's
25 been focused on practical things that hopefully will save

1 people's lives.

2 We can all talk about federalism and jurisdiction and all
3 this and that. But at the margins of a very broad spectrum, it
4 might be relevant, but on the practical issues, probably
5 doesn't matter at all.

6 And if there were a way to say we'll make the briefs due
7 in three weeks, but you directed the parties to confer with
8 each other during that extra week to try to come up with
9 pragmatic, actual concrete things to address these situations,
10 I think -- you know, if people want to fight, they can fight,
11 and they can appeal and all this and that. But if they do want
12 to get to practical compromises and solutions, there's a lot of
13 room here to try to make progress.

14 And obviously it's up to you. Whatever schedule you set,
15 we'll abide by. But I think if you asked the parties to confer
16 with each other to try to come up with -- you know, even if it
17 were PG&E and the government and the monitor team, if -- if the
18 three of us conferred, I -- I think it would give a better
19 chance of having maybe some consensus proposals, as opposed to
20 just people making lawyers' points.

21 **THE COURT:** Well, I -- will the CPUC meet and confer
22 and will PG&E meet and confer and will the U.S. Attorney meet
23 and confer?

24 If you're willing -- now, Mr. Aguirre, I'm leaving you out
25 of this piece because you're an amicus. So I'm not going to

1 let you get in there and insist on being part of these
2 meetings.

3 But will you other four meet and confer?

4 **MS. HAMMOND:** Your Honor, this is the CPUC.

5 I just have to emphasize this unusual position that we
6 find ourselves in. We're not a party to this proceeding. This
7 is a criminal probation.

8 At the same time, I do want to emphasize, as Your Honor
9 did note before that, the bankruptcy investigation proposed
10 decision does have -- appoints an independent monitor that
11 performs a function akin to the federal monitor.

12 And I think at the very least, that the Wildfire Safety
13 Division and the federal monitor and our Safety and Enforcement
14 Division can be talking. I think they might already be talking
15 and conferring with each other.

16 **UNIDENTIFIED MAN:** We have.

17 **MS. HAMMOND:** Yes. And --

18 (Audio connection dropped momentarily)

19 **THE COURT:** ...CPUC brief, I'd like to get that in two
20 weeks because you're not part of the meet-and-confer. But the
21 other three of you, PG&E and the U.S. Attorney and the monitor,
22 you all meet and confer, see if you can reach some practical
23 agreements. And then, your brief is individually due in three
24 weeks.

25 And Mr. Aguirre, I'll let you file a brief as well, but

1 you don't get to be in on the meet-and-confer. And your brief
2 is due in three weeks as well, too.

3 **MR. AGUIRRE:** Thank you very much, Your Honor. We
4 appreciate the opportunity to participate.

5 **THE COURT:** All right. I'm sorry; we've been going
6 two and a half hours. I'm sure my court reporter needs a
7 break. So I'm going to call the hearing to an end for now and
8 we will -- Theresa, I know we are overdue on the 11:00
9 calendar, so I'm going to hang up and call in in five minutes.

10 All right. So long, everyone. Bye-bye.

11 (Proceedings concluded)

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CERTIFICATE OF REPORTER

I, BELLE BALL, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Belle Ball

/s/ Belle Ball

Belle Ball, CSR 8785, CRR, RDR

Saturday, May 30, 2020